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# FIFTH INAUGURAL ADDRESS

OF

CLARK BELL, ESQ.\*

GENTLEMEN OF THE MEDICO-LEGAL SOCIETY: Permit me to thank you for the renewed expression of confidence manifested by my re-election to preside over your deliberations for another year, and to assure every member that I shall spare no effort to advance the interests of this Society, having a high ideal of its true mission in the general advancement of the Science of Medical Jurisprudence.

In carrying out the various measures enunciated in my last inaugural address, so favorably received and endorsed by the body, I have been actuated by the single purpose of placing this Society prominently in that position, with relation to both professions and the science it represents, it has the right to occupy; and the record of the past year will, I think, justify the efforts since made to increase the usefulness of our labor and widen the field of our influence.

The enrolled membership of the Society at the commencement of the year just closed was 177—94 physicians, 77 lawyers, and 1 scientist, exclusive of corresponding or honorary members. A considerable number of members have been so only in name, and have taken little interest in our work; and some of them have been dropped from the list. The roll now

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\* Delivered January 4th, 1883.

contains 267 names, 133 lawyers, 132 physicians, and 2 scientists, upon its active list.

Without making improper distinctions, I know it can be but a just source of pride to every member who has the prosperity of the Society at heart, to observe among the recent accessions the names of Judges Noah Davis, Charles Donohue, Wm. H. Arnoux, Miles Beach, Freeman J. Fithian, G. P. Hawes, David McAdam, Jas. B. Sheridan, Marcus Otterbourg, of the Judiciary ; Professors J. W. S. Arnold, Fordyce Barker, T. A. McBride, F. N. Otis, M. A. Pallin, Stephen Smith, F. R. Sturgis, A. H. Smith, and J. W. Wright, who are, or who have been, occupying Chairs in our Medical Colleges, not to name many other gentlemen occupying distinguished positions at the bar and in the medical profession. We now have three honorary and six corresponding members ; among the former, the honored name of Ernest Chaudé, President of the Medico-Legal Society of France, and author of valuable works upon Medical Jurisprudence. Arrangements are in progress for adding to this list of honorary and corresponding members distinguished gentlemen from Great Britain, France, Germany, Italy and other countries, for the purpose not alone of extending our influence abroad, but of enriching our archives by their contributions.

It is hoped that the completion of the great work of placing in our harbor next Autumn the colossal Statue of Liberty, donated to our country by the people of France, through the agency of Mr. Bartholdi, may be made the occasion of a visit by representatives of the French Society to this city as our guests, while I have the promise of that eminent gentleman, Dr. Henry Maudsley, to visit us next summer if his health permits.

The Library, according to the Report of the Library Committee, submitted this evening, shows an increase since February 1, 1882, of 376 volumes and 564 pamphlets. A list of the donors is appended, conspicuous among whom is the generous donation of Mr. E. N. Dickenson, of the New York Bar, who has become a patron and one of the founders of the library. Valuable contributions have been made by Dr. Fordyce Barker, Dr. A. N. Bell, Mr. Appleton Morgan, Dr. J. G. Johnson, Dr. F. N. Otis, and other gentlemen, as will appear in detail by that report.

Regarding the success of the Library as now well nigh assured, I hope those members who have not sent in their volumes for the past year, and such of the members as have not placed their names upon the list of voluntary contributors to the Library, will do so at once. The contributions made to the Library, under my previous administration, were : In 1873, 81 volumes ; 1874, 82 volumes and 7 pamphlets ; 1875, 364 volumes and 117 pamphlets.

A few volumes were donated, and some volumes purchased in the subsequent years, but I have not been able to find any record of the exact number.

In 1882, 376 volumes and 564 pamphlets were contributed, making a total of 903 volumes and 688 pamphlets during the years I have given the matter attention, and which I regard as a gratifying exhibit.

It is confidently hoped that the ensuing year will be still more gratifying in results, as the volumes already promised by members, and the exchanges anticipated for our published volumes, indicate valuable additions.

The library appeal has been and will be widely diffused through both professions, and the public press of the coun-

try are seconding the work of our Library Committee in the kindest manner.

Of the Society's papers, Vol. II. has been issued, and 100 copies have been taken by the Society for exchange with kindred and scientific societies and libraries, at a cost to the Society of \$300. Vol. III. will appear in due course, the delay being occasioned by the difficulty the Committee has experienced in obtaining from their authors copies of some of the papers which should appear.

The current transactions have appeared in both medical and legal periodicals, without cost to the Society. The thanks of the body are due to *The Sanitarian*, *The Medical Gazette*, *The Daily Register*, *The Journal of Nervous and Mental Diseases*, *The Journal of Neurology and Psychiatry*, *The Medical Record*, *The National Druggists' Journal*, *The Albany Law Journal*, *The New York Herald, Tribune, Times, Sun, World, Commercial Advertiser*, and the city press in general, for important favors and notices of its proceedings.

The papers of the year will be issued to members, free of charge, who are in good standing, as soon as sufficient matter accumulates, together with a resumé of the discussions of the more important papers.

The present financial condition and prospects of the Society are ample to defray all the current expenses, provide for the completion of Vol. III., and continue the publication as now initiated of all our future papers and transactions.

Dr. W. A. Hammond, having asked to be relieved from further service upon the Committee of Publication of the papers of the Society, I recommend that committee be enlarged by two names, and suggest the name of Dr. Edward Bradley in the place of Dr. Hammond, and that Professor

F. R. Sturgis and Mr. R. B. Kimball be added to that committee.

The Treasurer's report for 1881 showed a balance in hand, at the date of his report, of \$34.13. Total receipts from all sources for the year, \$1,410.70; total disbursements, \$1,171.82; balance on hand December 31, 1882, \$238.85. We begin the year 1883 with \$238.85 in the treasury. The disbursements for the year will be less than for 1882, by a saving in rent and in the item of \$100, retained by the secretary for alleged amount of salary, and \$43.60 charges for collection of dues. The income will be augmented by the increase of initiation fees and dues, and the probable increase of membership.

#### LEGISLATION.

The subjects of greatest prominence, deemed worthy of bringing to the attention of the Legislature, are :

1. The question of Reforms in the Lunacy Laws of the State regarding the committal and care of the insane, and the proper protection of the insane in their legal rights. The State Senate adopted the following resolution January 4, 1882: "*Resolved*, That the Attorney-General and State Commissioner in Lunacy be requested to report to the Legislature such amendments to the laws relating to the insane as may be necessary for the better perfecting of the same, and that they be further requested to make such report at as early a day as practicable."

This resolution has been referred by the Attorney-General of the State and the State Commissioner in Lunacy, to this Society, and is now before the Permanent Commission,

whose action upon these important questions comes before you this evening in a formal report.

2. The question of reform in the laws relating to the office of Coroner and the adoption of a new system of investigation and proceeding in all cases of sudden death, when reasonable cause exists for the belief that the cause of death was by violence, or has resulted from other than natural causes. This question has been before this body for some time, and the Society stands committed in favor of a substantial and radical change in the existing law, and the appointment of medical men skilled in the investigation of such cases, to take charge of the medical questions involved, and of having the legal questions determined by a court of competent power and jurisdiction. The Medical Society of the State of New York, on the invitation of your committee at the session of 1881, memorialized the Legislature in favor of reformatory legislation of this character. A competent committee of this Society has this subject now under consideration, and has made a formal report. I recommend that the subject be again brought to the attention of the Legislature, and that the State Medical Society be again asked to co-operate with us in asking legislation favoring the necessary change. I also recommend that the Society instruct the Committee on Coroners to frame and report a bill to be submitted to the present Legislature in accordance with the previous action of the Society and its executive committee.

3. Defining and settling the law as to who are experts, and what is proper expert testimony in criminal trials, especially when the defence of insanity is interposed, and defining by appropriate legislation the proper course and limit of such a defence in criminal cases.



4. Regulating the proper sanitary supervision of our public schools. This subject is in the hands of a competent committee, who will report during the session of the present Legislature for the action of the Society.

THE PROGRESS OF THE SCIENCE OF MEDICAL JURISPRUDENCE was signalized by the International Medico-Legal Congress held in Paris in August, 1878, under the auspices of the French Government, and at the instance of the Medico-Legal Society of France—M. C. Devergie, President.

Invitations were sent to England, Italy, Spain, Austria and Hungary, Norway and Sweden, Belgium, Denmark, Holland, Greece and Switzerland.

The following questions were considered :

I. Experts in medicine and the medico-legal expert.

II. The value of sub-pleural Ecchymoses (*sous plurales*) in legal medicine.

III. Do the eye-lids close themselves spontaneously after death, and under what conditions?

IV. The intervention of the medical expert in questions of wounds or fracture of the skull.

V. Medico-legal questions relative to the employment of anæsthetics :

a. Who has the right to use them?

b. Indispensable precautions.

c. Responsibility in case of death or serious accident.

d. Crimes committed while under their influence.

VI. Medico-legal questions regarding Divorce and its causes.

VII. Viability in forensic medicine.

VIII. Of survivorship in legal medicine.

IX. Of life insurance in its relations to medical jurisprudence.

Some of the papers read were :

Experts in Courts of Justice—by the President M. Devergie. Discussed by Daremberg, Devergie, Gubler, Laborde, Leon, Galippe de Grosz.

Laws relating to the Insane in Hungary—by M. de Groz.

Intervention of the Medical Witness in Cases of Wounds and particularly Fractures of the Cranium—by Dr. Louis Penard. Discussed by Laborde, Devergie and Penard.

Employment of Anæsthetics—by M. le Doctor A. Lutaud. Discussed by Rottenstein Lacassagne, Comby, Gallard, Legroux, Lutaud and Devilliers.

Artificial Delivery after Death—by M. le Dr. Thevenot. Discussed by M. Devilliers, Thevenot, Chautreine, Chaude, Gallard, Comby and Lutaud.

And many other papers and subjects of great interest were discussed during a session lasting through three days.

Our Society was not represented. The Congress was of great importance to Forensic Science.

#### THE FRENCH SOCIETY.

The Bulletin of the Medico-Legal Society of France, Tome VI, issued in 1881, with the proceedings of that body for the years 1879 and 1880, commencing with the Session of January 13, 1879, and ending with the Session of Dec. 13, 1880, under the Presidency of M. Devilliers, has reached me since my last Inaugural Address was pronounced.

It is an interesting volume of 566 pp., and contains the following valuable papers :

Medical Jurisprudence, by M. Emile Hortleloup ;



Poisoning by Arsenic, by M. Mayet;

Inaugural address of M. Devilliers on taking the Presidency ;

Fractures of the Skull, by M. Mory ;

Suicide or Assassination? by Dr. Schoenfeld ;

Report upon the case of an infant—supposed to have died from suffocation, by M. Devilliers ;

Illegal use of the forceps, by M. Alphonse Jaumes ;

Abortion by the injection of water in the uterus, by Dr. T. Gallard ;

Chemical and Histological examination of placenta, by Dr. Maurice Longuet ;

The legal responsibility of deaf mutes, by M. Lunier ;

A case of murder, by M. Polaillou ;

Cremation of the Dead, by M. Ladreit Lachamiere ;

The Medico-Legal value of Sub-Pleural Ecchymoses, by M. Legroux ;

The Practice of Pharmacy by Physicians, by M. Ernest Chaude ;

Attempted Abortion, by M. le Dr. Cauchois ;

Attempted Assassination, by M. le Dr. Motet ;

Invalidation of a Will, by M. Blanche ;

Suppression of part of the evidence furnished by an examination of the genital organs of the mother and the hair of the child, by Dr. T. Gallard ;

Advertisement and Sale of Secret Remedies, by M. Mayet ;

Biographical Notice of M. Devergie, by M. P. Brouardel ;

The Evidence furnished by the Uterus in the White Chapel Case in London, by M. le Dr. Lutaud ;

Study of the Method of Preserving Foot-prints of Men or Animals as Evidence, by M. Alphonse Jaumes ;

Obituary Notice of Alphonse Chevalier, by M. le Dr. T. Gallard, and an Oration by M. Devilliers ;

Notes of Criminal Cases, by M. le Dr. Severin Caussé ;

The Medical Legal Value of the Uterus as to Previous Pregnancies, by Dr. A. Lutaud ;

“Sunstroke,” by Alphonse Jaumes ;

Obituary Notice of A. Chevalier, by T. Gallard ;

Report upon a Case of Murder, by le Dr. A. Leblond ;

The Duty of Physicians Regarding Certificate of Births, by M. Chaude.

Year 1880.—Acute poisoning by Chlorate of Potash, administered by mistake, as a purgative, instead of Sulphate of Magnesia, by le Dr. A. Manuonez ;

Case of poisoning by Alcohol, by M. Le Blond ;

Physiological Experiments upon the Cadaver of Prunier, who was decapitated—by Dr. Evrard and MM. les Drs. Decaissee ;

Poisoning by Carbolic Acid, by M. Wiess ;

Critical study of the physical evidences of Pederasty, by P. Brouardel ;

Report upon the paper of MM. Petel and Labiche, as to the proper method of examining seminal stains, by MM. Bontmy and Brouardel ;

Sub Pleural Ecchymoses, by M. le Dr. Lemoine and M. le Dr. P. E. Chevalier ;

Accidental Poisoning, produced by injections of Carbolic Acid, by M. Ogeune ;

Report upon a case of Infanticide, by M. le Dr. Le Blond ;

Medico-Legal Notes in Clermont, during years 1869 to 1876, by M. le Dr. Fredet ;

Poisoning by Phosphorus, by M. Vermeil ;

Accidental Poisoning by the Bi-Chloride of Mercury, by M. Berthelemy;

On the development of Alkaloids in the Cadaver or Ptomaines, MM. Brouardel and Boutmy;

Study of Drowning, with reference to entrance of water in the blood and lungs. by MM. Brouardel and Ch. Vibert;

Accidental Poisoning by Neutral Sulphate of Atropia, used as an eye-wash, by le Dr. G. de Beauvis;

Poisoning by Strychnine, an elaborate and exhaustive paper, by M. A. Boyer.

I received only a few days since the first part of Tome VII., a small volume of 100 pages, commencing with the administration of the French Society under the Presidency of Monsieur Ernest Chaudé, in January, 1880, and furnishing the record of its labors for the major part of that year.

Its papers are the retiring address of M. le Dr. Devilliers, who had occupied the chair for two years, who paid a tribute to their illustrious dead (Devergie and Chevalier), called attention to the distinguished names that had been added to their corresponding list (MM. Filhol, Durian, Girard, Chavernoe, Moly and Chobenat) and briefly reviewed the labors of the Society under his administration. It also gives the inaugural address of Ernest Chaudé, of the French bar, on assuming the Presidency.

Its first paper by M. Guenier, entitled *Jurisprudence*, is a report in detail, of eight different cases from various criminal courts of France, including medico-legal questions of different kinds, and which are important and interesting.

An order for the discussion of the question of *Kleptomania*, and the question of thefts in the shops and stores (shop lifting) having been made, M. Brouardel submits an interesting

case on the subject, and the distinguished alienist, M. Lunier, submitted an elaborate paper based on 14 different cases, the details of which were analyzed and submitted, on which he had been called upon in his capacity as Medico-Legal expert.

M. Legrand du Saulle took brief part in the discussion, stating that he had made observations upon 83 cases, and gave his views on the subject based upon his experience.

M. Lasaggne contributes a very able article upon the same subject, based upon many cases that he had observed, of which he cites nine in detail. The contributions of the four gentlemen with the discussion forming a most important contribution to this branch of the science.

M. Vibert contributes a paper, being a Medico-Legal inquiry on cases of three nursing children, dying suddenly with typhoid fever, with microscopical examinations.

M. le Dr. Hurpy, of Dieppe, contributes a paper upon a curious case of suicide by hanging.

MM. Barthelemy and Magnare give in an interesting paper, the result of a scientific examination of cases of poisoning by carbonic oxide, with a careful analysis and description of the symptoms, and the work concludes with a communication from Dr. Fredch, of Royal, upon a case of death by suffocation, resulting from suppuration of the epiglottis, the result of intemperance, and a very interesting case submitted by Dr. A. Lutaud, upon the duty of the physician to preserve the secret confided to him by his patient in the matter of a refusal on his part to give the name and residence of the father or mother of an infant, when he had delivered the child pursuant to articles 55, 56 and 57 of the civil code of France.

The doctor refused to betray the secret and was

threatened with prosecution. He claimed his right to refuse under article 378 of the penal code.

Several interesting cases under the French law are cited, and the decision of the Procureur of the Republic was accepted finally by the Mayor of the Arrondissement, sustaining Dr. Lutaud in his refusal to give the name and residence of the mother.

This first part of Volume VII., of the Bulletin of the French Society comes down to the Session of March, 1881.

At the Session of May 9, 1881, a report was made by Devilliers upon a case of Infanticide submitted by Monsieur M. Hemar, formerly the President of the Paris Society.

At the Session of October, 1881, M. le Dr. Gillet de Grandmont read a paper on color blindness, which was discussed by Gallard Lacassagne, the author, and M. Lunier.

At the November Session of 1881, a report was made upon a case of infanticide by M. Billandeau, which was discussed by M. Penard, Billandeau and Gallard.

At the December Session of 1881, M. Herbelot submitted a paper on Legislation regarding the dangerously insane, and a paper was presented, on the viability of the newly born infant, which was discussed by Brouardel, Gallard and Lagream.

The action in 1882, so far as it has come to my knowledge, has been on the following topics : The report of M. Ernest Chaudé was made the special order for discussion at the meeting of 9th January, 1882, 13th February, 1882, and 13th March, 1882, and was discussed by Penard, Max Brunner, Mayet, Roeker, Gallard, Descourt, Lunkier, Lebaigne, Rocher, Leon, Chaudé.

Mr. Oliver submitted a paper at the Session of February,

1882, on *abortion*, and Dr. Ph. La Roche submitted a paper at the March Session of 1882, upon the Medico-Legal value of the signs and marks in important cases.

I am not advised what later papers have been read before the French Society.

#### GREAT BRITAIN.

I regret not being able to chronicle that advance in Medico-Legal science in Great Britain for which we have hoped. While there are individuals who give the science careful study and attention, and who have contributed to its progress and growth, it cannot be disguised that Great Britain is behind other nations, in the progress of Medico-Legal Science. The works of H. Maudsley, W. A. Guy, Prof. A. S. Taylor, Husband, Woodman and Tidy, Paris and Fonblanque, Bucknill, Tuke J. Balfour, Browne, Ryan, Trail, Brady, Winslow, Connolly, Pagan, Watson and Gaine are valuable contributions to the science, without enumerating earlier authors ; but there is no society of medical jurisprudence in Great Britain, nor any journal devoted to its advancement. While she has done and is doing much for medical science, and did as early as 1803, found a Chair of Forensic Medicine in the University of Edinburgh, which has been followed later by chairs in other colleges, it is a source of regret that the medical men of London do not unite with the leading members of the bar in a society for the advancement of medical jurisprudence, and aid the labors now going forward in the various countries in Medico-Legal studies.



## GERMANY

stands at the head, in the value of contributions, to the science of medical jurisprudence.

We have in our library Wilborg's *Bibliotheca Medicinæ Forensis*, which gives the titles and authors of 2,980 treatises, essays, &c., published from about A.D. 1600 to 1818, the great majority of which were by German authors. Orfila furnishes a list of works on poisons, coming down to 1848, of which 100 were by German, 33 by French and 19 by English-speaking authors

(Orfila *Medicine Legale*, 4th ed.)

Of the 498 literary contributions, to the science of medical jurisprudence and toxicology for the years 1858 and 1859, being 250 to the general science and 248 to the latter subject, Germany contributed 201 of the former and 118 of the latter. (New Sydenham Society year books, 1858 and 1859.)

It is the opinion of competent judges that Germany contributes more to Medico-Legal literature than all other nations. And such is the opinion expressed by Prof. Stanford E. Chaille, of Louisiana, in his admirable address delivered before the International Medical Congress at Philadelphia, in 1876.

## OTHER CONTINENTAL COUNTRIES.

There is an increasing interest in Forensic Medicine in most of the other continental countries. The writings of Schleisner of Copenhagen place him deservedly in the front rank of modern authors. Dr. Lewis de Grosz, of Buda Pesth, Hungary, has contributed two valuable works in 1868 and in 1873, upon medical jurisprudence,

and that country has for thirty years maintained a system of legal medical experts, worthy our examination, and based upon advanced scientific grounds. Each tribunal in Hungary has its medical expert, named by the Minister of Justice for life, with the title of Royal Medical Expert. All medical opinions of physicians are submitted to his scrutiny—an appeal may be taken as a last resort in case of difference of opinion to either one of the two Public Professors of Legal Medicine, the one at the University of Buda Pesth, the other at the University at Klausenbourg. The study of medical jurisprudence is required by law to be pursued by both legal students in the schools and by medical students in the medical colleges under competent professors.

The Superior Council of Hygiene, or the Faculty of Professors in Medicine, can order the exhumation of dead bodies, the removal of those who have been adjudged insane into the central asylums for the insane, and address any questions supplementary to the report, to the Royal Medical Expert of the Tribunal concerning the case in review.

Hungary has established at Buda Pesth, a central laboratory, presided over by the Legal Chemist of Hungary, who occupies himself exclusively as the chemical expert in all cases of poisoning, or other causes arising in the criminal courts requiring chemical analysis.

In Belgium more attention is being paid to the science, and Dr. Vleninecky, of Brussels, was selected as one of the Vice-Presidents of the International Medico-Legal Congress, who attended and gave an account of the then recent changes in the Belgium laws regarding the evidence of Medico-Legal Experts.

It is to be hoped that a few years will witness the found-



ing of still other societies within several of the continental countries.

### ITALY.

While the *Biblioteca Medico-Legale*, published at Pisa, the two volumes of which were published as late as 1877, bring the works down to later dates (which volumes I have not seen, but have seen quoted), the earlier Italian authors on Medical Jurisprudence have been of acknowledged excellence : Zacchias Paulus, Tortosi and Bargoletti, Taurini, and the later works of Presutti, Freschi, Laggaritti and Gandolfi. But few, however, of these contributions have been translated into English. Beccaria's old work was translated into English in its 5th edition, as early as 1804. Doctor Arri- gio Tomassia, an Italian Professor of Medical Jurisprudence, has written a prominent member of this Society (Dr. W. J. Morton, editor of the *Journal of Nervous and Mental Diseases*), evincing great interest in the science, and announcing his intention, acting in conjunction with distinguished Italian confreres, to found in Italy a Society of Medical Jurisprudence for that kingdom. I am in correspondence with this gentleman upon that and other subjects connected with the science, and desire to see his name placed on the list of corresponding members.

### AMERICA.

In our own country, outside of the work of this society, I think it is fair to claim a general increase of interest, not only in both the great professions most intimately

connected with the science, but with the thoughtful public.

The Medico-Legal Society of Massachusetts, while being an association composed in the main of the Medical Examiners appointed by the Governor under the new law abolishing coroners, also takes an interest in general forensic medicine. That society reports the practical, admirable working of the new law, and the influence of that movement has been, and is now, felt in every State.

There is great public interest felt in the exciting questions of the proper methods of committing and protecting the insane, and the public mind is aroused to the importance of remedial legislation in the various States, which is, by no means, confined to this Society. A national organization entitled, "The National Association for the Protection of the Insane and the Prevention of Insanity," has been organized, which embraces distinguished alienists in various States, and which meets in Philadelphia this month, at its annual session. Last year valuable contributions were made by prominent gentlemen, which were then read and discussed, and the proceedings published in a journal conducted under the auspices of that body.

The Neurological Society of this City is doing valuable work in a line of the science which cannot fail to be felt upon the valuable increasing literature of our age.

#### NECROLOGY.

We have lost four members by death during the year that passed. Two from each profession. On the medical side, the eminent surgeon Dr. James R. Wood, and Dr. Hogan, one of our oldest members.

On the legal side, Hon. Edwin N. Stoughton, that lustrous name of the Senior Bar, and the gifted Albert Herrick, of the Junior Bar, whose funeral we have but just attended. Dr. Hogan and Mr. Albert Herrick have both died since our last session.

#### GENERAL RECOMMENDATIONS.

##### *Translations.*

We have in this Society a considerable number of gentlemen thoroughly familiar with the German language and fully competent to make translations into English. I have made a list of more than forty members of this Society who are fully qualified and competent to do such a work well.

It is a great loss to both professions that the writings of such authors as KRAFT EBING, and others, are either not translated at all, or that translations of old and almost obsolete editions only exist—of but little value.

I should be glad if the Society will authorize the formation of a numerically strong Committee, selected from such members as would be willing to work with a view of rendering into our own tongue the more valuable of the German writers, commencing with those which are not translated at all. The translations, when completed, to be submitted to and approved by the Society, printed in its paper and transactions, and credited, in all cases, to the gentlemen who make the translations.

To lighten the labor it should be divided among several workers. A Committee of at least ten, or perhaps twenty, could readily be formed from our best German scholars, for

this purpose, some of whom have expressed a willingness to engage in it.

A similar Committee could easily be formed of members competent to translate French, who, while not probably as numerous as the German scholars, would easily accomplish more and better translations each year than we can find time or means to otherwise obtain.

From the desire to gather translations of the abler German writers, I am of the opinion that publishers could be found who would be glad to undertake the publication of such works of this class as we could not find space for in our own publications, or were unwilling to incur the expense of publishing, if it assumed too large proportions. •

The recommendation as to the Italian works, and other languages, would depend upon the strength of a suitable committee, concerning which more careful inquiries can be made among our members.

#### MEDICO-LEGAL JOURNAL.

It has been suggested to your President that the time has now arrived, when it would be wise to carry out the view entertained some years ago, of starting a journal, under the auspices of this Society, devoted wholly to the science of medical jurisprudence.

The fact that no such journal now exists in the world, it is thought, would arrest the attention of every member of both the professions of law and medicine in all English-speaking countries, and be sustained by scientific men in foreign countries, who speak or read our language. The *Annales de Hygiène et de Médecine-Légale* is a publication which

may truly be said to occupy a part of the field to which such a journal would be entitled, if ably edited and conducted, and the value of this work to the science is enormous. I should also mention as of great value the *Quarterly Journal of Medical Jurisprudence and Public Hygiene*, of Berlin. The better plan for such a publication might be to allow every member of this Society to have a copy on payment of \$2.00 besides his regular dues.

It would be a matter of opinion whether to make the price \$3.00 or \$5.00, which would be settled at the proper time, in some satisfactory way, and so that both professions outside the Society might feel interested in subscribing for, and sustaining such a journal.

The editorial staff should be selected equally, or nearly so, from both professions, and I have no hesitation in saying, that if the Society favors the plan, an exceptionally strong editorial staff can be selected with ease from our ranks, which would entitle the volume to the confidence and support of every legal or medical gentleman in the United States, or the Canadas.

Such a journal should contain, besides the original articles of the editors, all papers read before the Society, approved by the editors, original contributions by persons not members, papers, statements or queries propounded to the Society by any person, tribunal or body, and the transactions and debates of this Society.

It could be owned and conducted by the Society, at the charge and cost of the latter, at a relatively small expense, or it could be owned by individuals, and be made the organ of the Society, and conducted so that all papers and proceedings should appear promptly.

If owned by individuals, the Society might subscribe for 100 copies at \$3.00 each, to be sent, under its system of exchanges, throughout the world, limiting the liability of the Society to that sum, and letting the owners take the risk of outside subscription, and of the number of members who would subscribe under the provision suggested.

I can undertake to fill the editorial staff, if the Society favor such a journal, without difficulty.

The subject, if approved by the Society, should be referred to the Executive Committee as to arranging details.

#### HEADS OF HOSPITALS AND INSTITUTIONS—THE COURTS AND BOTH PROFESSIONS.

I recommend that we invite all Superintendents of Hospitals, Asylums, Prisons, Charitable Institutions, Municipal Boards, Judges, District Attorneys, and especially all physicians in charge of any Asylum or Institution, to communicate direct to this Society any case coming to their notice or under their observation involving Medico-Legal questions, with a brief and clear statement of the facts and the forensic questions involved, with such comments, views or criticism as they desire to submit to this body. That this invitation be also extended to members of both professions throughout the United States, to public officials, Courts or officers of Justice, regarding Medico-Legal questions involved in actual cases arising, which questions, statements or communications will be laid before the body, its Permanent Commission, or select and appropriate committees, for action.



The French Society of Medical Jurisprudence has adopted a similar plan with great success, and their later Bulletins are enriched by reports of cases, submitted by physicians and advocates throughout France, which has sensibly widened the field of the labors of that body.

It must be apparent that if such an invitation be widely given, and responded to, it would sensibly enlarge the usefulness of this Society.

The increase in our members of gentlemen carefully selected from the two professions, who take an interest in forensic cases, renders it possible for this Society to ably respond to such practicable questions as might be thus submitted, by sub-dividing the work among the members in select committees, while reports of cases or papers based upon actual facts arising from time to time (and often our Judicial decisions), would find an abler analysis and wider diffusion in the scientific world than through any other channel.

The public press of to-day finds our proceedings of increasing interest to its general readers, and our own publications will attract larger public attention as time progresses.

I recommend that the Legislature be memorialized by this Society in favor of the passage of a law :

1. Creating an office to be known as the State Chemist, with a salary of not less than \$5,000, and not exceeding \$10,000 per annum, sufficient to secure the best talent in the State for the office.

2. That he have charge of a laboratory to be furnished by the State, with suitable assistants, and provisions for conducting the same under proper provisions.

3. That every case arising in the State in criminal cases,

be sent to this officer for analysis, under proper regulations, and that his reports thereon be used in criminal cases for the people and the defense ; and that this be placed upon such a basis, both as to the proper selection of an officer, who should be non-partisan and selected only for high attainments in his profession and its administration, as would enable the people and the accused to have the most careful chemical analysis made, in every case requiring one, arising in the State at the public expense.

Thanking you, gentlemen, for the honor conferred, let us assume the new duties of the coming year with renewed interest and determination.



# REPORT OF THE PERMANENT COMMISSION

IN ANSWER TO THE SENATE RESOLUTIONS OF JANUARY 4, 1882,

IN REPLY TO THE LETTER OF THE ATTORNEY-GENERAL AND STATE COMMISSIONER

IN LUNACY OF THE STATE OF NEW YORK.

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TO THE MEDICO-LEGAL SOCIETY :

On the 4th day of January, 1882, the following Resolution passed the Senate of the State of New York.

*Resolved*, That the Attorney-General and State Commissioner in Lunacy be requested to report to the Legislature such amendments to the laws relating to the Insane as may be necessary for the better perfecting of the same, and that they be further requested to make such report at as early a day as possible.

Subsequently the Attorney-General and the State Commissioner in Lunacy, addressed to the President of this Society a circular letter of which the following is a copy :

STATE OF NEW YORK :  
OFFICE OF THE ATTORNEY GENERAL, }  
ALBANY, *February 8th*, 1882. }

CLARK BELL, Esq., *President of the Medico-Legal Society :*

DEAR SIR: We beg leave to call your attention to the subjoined Resolution, which passed the State Senate on the 4th day of January, inst.:

*Resolved*, That the Attorney-General and State Commissioner in Lunacy be requested to report to the Legislature such amendments to the laws relating to the insane as may be necessary for the better perfecting of the same, and that they be further requested to make such report at as early a day as may be practicable.

While our present Lunacy Laws are in the main satisfactory, and no extensive revision or radical changes are deemed necessary, it is yet believed that these Statutes need to be developed in portions at least of their provisions, so as to enlarge the areas of guardianship within which they are intended to exercise the parental supervision of the State over its insane wards.

For this purpose, and in advance of any suggestions which it may devolve upon us to make, we are anxious to secure a full conference with the Judiciary of the State and the leading members of its Bar.

The points to which we would more particularly direct your attention, and upon which your opinion is solicited, are :

1st. The question of bringing the present form of government of each State Lunatic Asylum as a public charitable trust under one uniform system of administration.

2d. The proper limits of *extra-judicial* supervision of such Trusts, by the State Board of Charities.

3d. The limitations to be put upon the powers of personal custody of lunatics exercised by their Committees in removing them *extra-territorially*.

4th. The length of personal custody, involving restraints upon personal liberty, and regulation of the domicile of habitual drunkards, which should be imposed upon them when adjudicated to be such.

5th. The disposal of insane criminals acquitted on the ground of insanity in respect to the question—

1st. Whether any determinate time may be fixed by the Court, during which such party should be detained for personal observation and *public safety* in an Asylum, and if not, then,

2d. Whether any date can be fixed before which no application for a release, on the ground of alleged recovery, shall be entertained.

6th. Whether permanent insanity, requiring the confinement in an Asylum of either a husband or wife continually during seven years, and being adjudicated thereafter as probably incurable, shall constitute a valid ground for divorce; providing that in case of the insanity of the wife she shall not thereby forfeit her right of dower by reason of any decree dissolving the marriage.

This inquiry has been suggested to us, with a view to eliciting an expression of public opinion upon it.

7th. If in your experience of the practical operation of these Statutes any modifications or changes are deemed necessary, you will oblige us by stating them.

Early replies to the above inquires are solicited under the request of the Resolution calling for a speedy Report.

Very Respectfully yours,

LESLIE W. RUSSELL,

*Attorney General.*

JOHN ORDRONAU,

*State Commissioner in Lunacy.*

This communication was referred by the President to the Permanent Commission, who have considered the subject and respectfully submit the following as their

## REPORT :

Since the adoption of the Senate Resolution, and after the reference was made to the Permanent Commission of the Medico-Legal Society of New York, Prof. John Ordronaux, who was then State Commissioner in Lunacy, has been superseded in office by Dr. Stephen Smith, a member of this Society, appointed by Governor A. B. Cornell to that office.

The Permanent Commission feel that its answers to the special points to which the Attorney-General and the Commissioner in Lunacy direct attention would not be adequately understood without reference to other points necessarily involving the broad inquiry of the Senate and inseparably connected with the special points submitted by the Attorney-General and the State Commissioner, because the members of the Permanent Commission were not entirely agreed that our present lunacy laws are in the main satisfactory ; hence its members have considered the subject from two stand-points, or from a two-fold point of view.

1. The Senate Resolution by itself as to what was a proper answer to that inquiry by the Senate, and

2. To consider and report upon the questions submitted by two officials in their circular letter addressed to this body of date of February, 1882.

And first, as to the Senate Resolution.

The present statutes of this State, regarding the insane, may be divided into four general divisions :—

1. General laws as to the insane and their care.
2. Laws relating to the asylum for the Chronic Insane at Binghampton.

3. Miscellaneous provisions relating to insane persons, and

4. Idiots and the State asylum for their care.

The laws relating to the insane are extensive, perhaps not well understood, and this Commission does not feel called upon to pass upon all the particular provisions which might be properly regarded as faulty.

It will confine its report and action to such salient portions of the laws of the State as require in the judgment of its members the attention of the Legislature.

The sections of the present law which provides for the commitment of the insane are as follows :—

#### CHAPTER 446, LAWS OF 1874.

##### *Physician's Certificate. Approval of Judge.*

1. "No person shall be committed to or confined as a patient in any asylum, public or private, or in any institution, home or retreat for the care and treatment of the insane, except upon the certificate of two physicians under oath, setting forth the insanity of such person.

"But no person shall be held in confinement in any such asylum for more than five days, unless within that time such certificate be approved by a judge or justice of a court of record of the county or district in which the alleged lunatic resides and said judge or justice may institute inquiry, and take proofs as to any alleged lunacy before approving or disapproving of such certificate, and said judge or justice may in his discretion call a jury in each case to determine the question of lunacy."

##### *Qualifications of the Physicians.*

2. "It shall not be lawful for any physician to certify to

“the insanity of any person for the purpose of securing his  
“commitment to an asylum, unless said physician be of reputable character, a graduate of some incorporated medical  
“college, a permanent resident of the State, and shall have  
“been in the actual practice of his profession for at least  
“three years. And such qualifications shall be certified to  
“by a judge of any court of record.

“No certificate of insanity shall be made except after a  
“personal examination of the party alleged to be insane and  
“according to forms prescribed by the State Commissioner  
“in Lunacy, and every such certificate shall bear date of not  
“more than ten days prior to such commitment.”

3. “It shall not be lawful for any physician to certify to  
“the insanity of any person for the purpose of committing  
“him to an asylum of which the said physician is either  
“superintendent, proprietor and officer, or a regular professional attendant therein.”

11 of the same act provides as follows :—

“If any lunatic committed under the provisions of this  
“article or any friend in his behalf be dissatisfied with any  
“final decision or order of a county judge, special county  
“judge, surrogate judge of the Superior Court, or Court of  
“Common Pleas of a city, or police magistrate, he may  
“within three days after such order or decision appeal there-  
“from to a justice of the Supreme Court, who shall there-  
“upon stay his being sent out of the county and forthwith  
“call a jury to decide upon the fact of lunacy.

“After a full and fair investigation, aided by the testimony  
“of at least two respectable physicians, if such jury find him  
“sane, the justice shall forthwith discharge him, or otherwise  
“he shall confirm the order for his being sent immediately



“to an asylum. In case any county judge, special county judge, surrogate, judge of the Superior Court or Court of Common Pleas of a city, or police magistrate refuse to make an order for the confinement of any insane person proved to be dangerous to himself or others if at large, he shall state his reasons for such refusal in writing, so that any person aggrieved may appeal therefrom to a justice of the Supreme Court, who shall hear and determine the matter in a summary way or call a jury, as he may think most fit and proper.”

The Commission, considering the provisions of the existing laws above cited, desire to submit the following criticisms and recommendations :

It is the unanimous opinion of the members of this Commission that no person should be committed to an insane asylum upon the simple certificate of two physicians under oath, as provided by Section 1.

It should not be in the power of two physicians, by their own act, to arrest any citizen or confine him to an asylum for five days, or for any time. No person, sane or insane, should be thus deprived of his liberty without due process of law, or without the decree or order of a court of competent jurisdiction, and a full opportunity being granted for a hearing.

2. The qualifications of physicians either to certify to lunacy or testify concerning it, as set out in the existing law, are radically defective.

The physician may be perfectly respectable, of the highest character, and three (or even twenty) years' practice, and still, from lack of experience on this subject, not be entitled to act, especially in difficult, obscure, or doubtful cases.

The Statute qualifications of a physician, required to be

certified to by a judge of a court of record, under Section 2, need thorough revision; at present they are not what is required in these cases.

Under the letter and provision of these Statutes, any respectable physician, a graduate of an incorporated college, of three years' practice, is eligible to be made an examiner in lunacy. This alone is sufficient to destroy the usefulness of the law, and must open the way for abuses. No physician, in the judgment of this Commission, should be allowed to either certify as to the insanity of an alleged lunatic, for the purpose of committing him to an asylum, or to testify as an expert on the question or fact of lunacy in any proceeding under these Statutes, who has not the requisite knowledge, skill and experience in mental diseases to entitle him to be called as an expert in such cases. Examiners in lunacy should be carefully selected by a competent commission or tribunal, and should be only men who are peculiarly qualified by experience, skill, study, and attainments to speak intelligently upon such cases.

3. The laws should provide that no judge should sign an order for the commitment of any person to an asylum except after full, complete and satisfactory evidence by qualified and competent medical witnesses that the person charged was insane at the time the order was signed, and then only on personal examination by the court, unless the state of the lunatic forbade it. The accused should be brought before the court, if possible, in all cases.

If it is claimed that many cases occur where it is absolutely necessary to instantly arrest and restrain an insane person who is violent and liable to commit crime or rash acts, as a reason why the existing summary process should be contin-

ued, the answer is, that in all such cases an arrest can be made by an officer, as in police cases, on charge of disorderly conduct, which will afford the people full protection until the proper hearing and examination can be made by the court, which protects every citizen in his constitutional rights, and would of course prevent sane persons being cast into asylums without opportunity for hearing, examination, or defense. If the law as to disorderly persons precludes this, it should be amended so that persons who are disorderly and dangerous can be placed in custody, whether sane or insane, until due examination can be had. But it is not deemed a violation of existing laws that a person really insane, but not so adjudged by a court, should be arrested as disorderly, and held as such till a hearing and full examination could be made.

This Commission decides not to consider or report concerning the second and fourth divisions of the lunacy laws, as above divided, but make a few suggestions as to the third division, viz.:

Miscellaneous provisions relating to the Insane, Sec. 34, Title I, Laws of 1874, Chap. 446, provides that no insane person confined in any county court-house or any asylum shall be discharged except upon the order of the county judge or judge of the Supreme Court, founded upon satisfactory evidence that it is safe, legal and right to make such discharge as regards the individual and the public. This Section, however, does not apply to New York or Kings Counties, but permits any person confined as insane in those counties to be discharged upon the written certificate of the physician thereof that such discharge is safe and proper, not requiring the order of the judge.

In the opinion of this Commission, such a distinction between the other Counties of the State and New York and Kings is improper and indefensible. It is a remarkable fact that even a judge of the Supreme Court has not the power to make an order outside of New York and Kings for the discharge of a person confined as insane without satisfactory evidence that it is safe, legal and right to make such discharge as regards the individual and the public, while the physician in charge in those counties, without any evidence at all, at his own will, may authorize the discharge of any person confined on signing a certificate that such discharge is safe and proper.

This is a very extraordinary power to confer upon the physician in charge, and if a wise provision, should not be limited to two counties only in the State.

It is a power which would be liable to abuse, and is of questionable propriety.

This Commission is of the farther opinion that legal provisions are necessary to enforce the following as among the rights of the insane.

1. In the judgment of a majority of this Commission, every person incarcerated in an asylum for the insane, whether public or private, should have the right at all times to communicate, by letter or mail, with counsel or any friend with regard to,

a. The methods or circumstances attending his commitment, or upon any subject connected with or relating to his discharge from the asylum.

b. Upon other subjects, subject to the approval of the Superintendent of the institution in which he is confined.

2. Every person confined as a lunatic should have the

right at any time without public expense to have his mental state and condition examined by competent medical experts, entirely disconnected with the officers of the institution or asylum in which he is confined. Information as to these and other rights and privileges of the insane should be communicated to them by posting regulations concerning their rights and privileges accessible to them.

3. Provision by law should be made for the proper and careful examination of every person confined in a lunatic asylum compulsory at least once every six months, and more frequently if ordered by the State Commissioner in Lunacy; this examination should be made by competent experts appointed for the purpose and wholly disconnected with the institution in which the person is confined.

4. If practicable, an institution should be provided for persons permanently deprived of their liberty, whether those known as criminally insane or not, who are subject to recurrent fits or attacks of acute insanity or who have lucid intervals. Humanity as well as justice would seem to demand that such unfortunates during the period when their reason is unaffected should be furnished with every comfort consistent with their safe keeping, and free from contact with the chronic insane, or with the victims of acute insanity or raving maniacs.

If impracticable to regulate this by a separate institution, provision should be adopted by the Legislature to enforce such regulations within existing institutions.

4. The Commission desire to express its approval of Section II, of law of 1874, giving the lunatic or any friend in his behalf a right of appeal. Also as to the provisions of law giving the Court of Oyer and Terminer and the Governor



power to appoint Commissioners to enquire into the insanity of persons accused or convicted of crime, regarding those as wise and useful provisions. The Commission, however, is of the opinion that the time within which the appeal can be taken is too short, and the law should provide that the Court should notify the insane person and his representative of his right of appeal.

An appeal from any order directing the confinement of any person in an Insane Asylum, should be allowed at any time, though perhaps such appeal should not stay proceedings unless brought within thirty days after the making of such order.

We append a copy of the printed form, approved by the State Commissioner in Lunacy, and now in general use in this State, to which we wish to call attention. The certificate should contain a schedule of blank questions and answers, which should fully describe the case and cover the manifestations. The State Commissioner in Lunacy should be asked to prepare a new form which should embrace questions for all the data necessary to pass on the case so far as practicable.

2d. As to the questions submitted by the official letter of the Attorney-General and the State Commissioner in Lunacy.

The Permanent Commission do not concur in the view expressed in the circular, that "while our present lunacy laws are in the main satisfactory and no extensive revision or radical changes are deemed necessary," etc., etc. The Commission are of the opinion that the interest of the people at large, and especially the great and growing body of the insane, would be benefited by a thorough revision in the present lun-



acy laws, and that important changes could with great good be made in the present system.

They regard the present system as a growth built up with amendments and changes largely adopted at the suggestion of the late State Commissioner in lunacy, Prof. Ordronaux, to whom the people of the State are certainly under great obligations for bringing forward the subject from its former chaotic condition to the present system, which is a great advance upon the old law.

We owe it to him that the ground has been broken in the direction of a revision or codification of the lunacy laws, and this work as far as it went (and probably as far as it could be carried at the time he undertook it), seems to have been well done, and to have opened the door for further improvements whenever the time arrives for making them.

And while thus recognizing to the utmost all that may fairly be claimed for the present system, they are of the opinion that as a whole it is not the best system. They recognize the difficulty of making an amendment here or there to meet acknowledged and existing evils in the law, and they believe it would be a great step forward if the Legislature would authorize the appointment of a commission to thoroughly revise the lunacy laws as they now exist as a system, with a view and for the purpose of devising and substituting a better and more efficient system than the existing one.

As to the first question of the circular. 1st. "The question of bringing the present form of government of each State Lunatic Asylum as a public charitable trust under one uniform system of administration." The Commission are opposed to bringing the present form of Government of each State Lunatic Asylum as a public charitable trust under one uniform system of administration.

“2d. The proper limit of *extra-judicial* supervision of such “trusts, by the State Board of Charities.”

To the 2d question, the Permanent Commission sees no occasion for extending the limit of extra judicial supervision of such trusts by the State Board of Charities.

The visitatorial and investigating powers of the State Board of Charities existing under laws of 1873, Chap. 571, Sec. 4, &c., (formerly known as the Board of Commissioners of Public Charities, 2, laws of 1867, Chap. 951) are in the judgment of this Commission wise and beneficent provisions, and should remain.

We regard it as the settled policy of the State that existing laws to protect and provide for the securing investigation, inspection and officially reported information to the State authorities as to the internal condition and management of every charitable institution or asylum, whether for the insane or otherwise, that is an applicant for or dependent on aid from the State are wise, legitimate and proper, and should be continued, with such changes as the experience of the case make proper to enforce and provide fully for such visitation and inspection.

This clear power and duty of the State Board of Charities should be kept separate and distinct from the office, powers, duties and work of the office of the State Commissioner in Lunacy, who should have not merely power to inspect and report, but ample authority for all duties and incidents peculiar to asylums for the insane, and he should undoubtedly possess the necessary qualifications of an expert required for the proper exercise of that authority.

We feel that while on the one hand the direct responsibility and the necessary powers therefor in respect to the en-

forcement of the law for the protection of the insane in asylums, and the protection of those of sound mind against incarceration should be vested in judicial officers, acting under the advice of experts in lunacy, yet on the other hand the asylums or institutions in which the system is administered may properly be made subject to visitation and investigation so that to some extent the State Commissioner in Lunacy and his administration of the law would be subject to inquiry and report to the Legislature in the case of all institutions for the insane which have charitable aid from the State.

If on the other hand it should be thought advisable to create a State Board for the visitation of Insane Asylums *per se* and for the exclusive care of the insane in institutions, the State Board of Charities would hardly meet the public needs

A State Board regulating, controlling or supervising the administration of lunatic asylums should be selected for its peculiar fitness for such a work, under conditions as to its personal, which do not exist in the composition of the State Board of Charities, excellent as it is for the purposes for which it was created.

3d Question. "3d. The limitations to be put upon the "powers of personal custody of lunatics exercised by their "Committees in removing them extra-territorially."

The Permanent Commission is of the opinion that the laws should perfectly clothe the Courts with full powers over all committees of lunatics, to restrain and control the removal of lunatics by those committees extra-territorially.

4th Question. "4th. The length of personal custody, involving restraints upon personal liberty and regulation of

“the domicile of habitual drunkards, which should be imposed upon them when adjudicated to be such.”

We answer; this should be regulated by wise provisions of law which, while fully recognizing the rights of the citizen, should not interfere with the power of the courts or its Committees acting under their humane and enlightened guidance in such action as would be for the best interest of the sufferer, considered from an enlarged and humane standpoint.

5th Question. “The disposal of Insane criminals acquitted on the ground of insanity in respect to the question :

“1st. Whether any determinate time may be fixed by the Court, during which such party may be detained for personal observation and public safety in an asylum, and if not, then :

“2d. Whether any date can be fixed before which no application for a release, on the ground of alleged recovery, shall be entertained.” Is of great importance. As to the first sub-division of the fifth question the Commission are of the opinion that the Court should have such power, subject only to the one question of permanent restoration to reason.

No insane criminal acquitted on the ground of insanity should be suffered to go at large unless fully and permanently restored to reason. Time of application should not be made the test, but complete restoration should be insisted upon and every reasonable safeguard against a recurrence of the attack. A restoration which on adequate and careful examination gives every assurance that it will be permanent.

6th Question. “Whether permanent insanity requiring

“the confinement in an asylum of either a husband or wife  
 “continually during seven years, and being adjudicated there-  
 “after as being probably incurable, shall constitute a valid  
 “ground for divorce; providing that in case of the insanity  
 “of the wife she shall not thereby forfeit her right of dower  
 “by reason of any decree dissolving the marriage.”

There is a division of sentiment and opinion in the Commission upon this question. A majority of the Commission, however, are opposed to any change in the law recognizing insanity in any form as a ground for divorce

In witness whereof, the undersigned members of the Permanent Commission of the Medico-Legal Society of New York have hereto subscribed our names this 26th day of December A. D., 1882.

CLARK BELL, *Chairman.*

AUSTIN ABBOTT,

GEORGE H. YEAMAN,

JACOB F. MILLER,

R J. O'SULLIVAN, M. D.

WOOSTER BEACH, M. D., *Secretary.*

#### FROM CHAPTER 446, LAWS OF 1874.

SECTION 1.—No person shall be committed to, or confined as a patient in any asylum, public or private, or in any institution, home, or retreat, for the care and treatment of the insanè, except upon the certificate of two physicians, under oath, setting forth the insanity of such person. But no person shall be held in confinement in any such asylum for more than five days, unless within that time such certifi-

Certificate  
of physi-  
cians.

Approval  
thereof.



cate be approved by a judge or justice of a court of record of the county or district in which the alleged lunatic resides, and said judge or justice may institute inquiry and take

*Proofs.* proofs as to any alleged lunacy before approving or disapproving of such certificate, and said judge or justice may, in his discretion, call a jury in each case to determine the question of lunacy.

*Qualifica-  
tion of  
Physi-  
cians.*

SECTION 2.—It shall not be lawful for any physician to certify to the insanity of any person for the purpose of securing his commitment to an asylum, unless said physician be of reputable character, a graduate of some incorporated medical college, a permanent resident of the State, and shall have been in the actual practice of his profession for at least three years, and such qualifications shall be certified to by a judge of any court of record. No certificate of insanity shall be made except after a personal examination of the party alleged to be insane, and according to forms prescribed by the State Commissioner of Lunacy, and every such certificate shall bear date of not more than ten days prior to such commitment.

*Personal  
examina-  
tion.*

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### MEDICAL CERTIFICATE.

I, \_\_\_\_\_, a resident of \_\_\_\_\_, in the county of \_\_\_\_\_, State of New York, being a graduate of \_\_\_\_\_, hereby certify under oath that on the \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_\_, I personally examined \_\_\_\_\_, of the age of about \_\_\_\_\_ years, \_\_\_\_\_ married, and by occupation a \_\_\_\_\_, and that said \_\_\_\_\_ is insane, and a proper person for care and treatment under the provisions of Chapter 446, of the laws of 1874, of the State of New York.



I further certify that I have formed this opinion upon the following grounds :

(Here insert the particular manifestations of insanity.)

And I further declare, That my qualifications as a medical examiner in lunacy have been duly attested and certified by \_\_\_\_\_, Judge of \_\_\_\_\_

Sworn to and subscribed before }  
me, this day } M. D.  
of , 188 }

The oath, or affirmation, may be administered by any qualified officer of the State of New York.

Two physicians must separately make affidavit of the insanity of the patient.

# REPORT OF THE COMMITTEE UPON CORONERS, ETC.

TO THE MEDICO-LEGAL SOCIETY :

The Committee upon Coroners, etc., beg leave to report, that pursuant to the instructions of the Society a bill has been prepared, and after being approved by the Society, has been forwarded to Hon. Jacob F. Miller, of the Assembly, who introduced it, and after reference to the appropriate committee, it has been favorably reported to the Assembly.

7th March, 1883.

Respectfully submitted,

D. C. CALVIN,  
ALEX. B. MOTT, M. D.,  
CHAS. A. DOREMUS, M. D.,  
AUSTIN ABBOTT,  
WOOSTER BEACH, M. D.,  
*Committee.*

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AN ACT TO PROVIDE FOR EXAMINATIONS AND INQUESTS IN CASES  
OF DEATH BY VIOLENCE; THE APPOINTMENT OF MEDICAL  
EXAMINERS; TO PRESCRIBE THEIR DUTIES AND OF CORONERS;  
AND TO ABOLISH CORONERS' JURIES.

*The people of the State of New York represented in Senate and  
Assembly do enact as follows :*

SECTION 1.—The County Judge of each County in this  
State, except New York, shall on or before the first day of

July, in the year one thousand eight hundred and eighty-three, appoint a Medical Examiner in and for each Assembly District in his County, except in the County of Kings, in which there shall be appointed two for the whole County, and in and for the City and County of New York, the Chief Justice of the Court of Common Pleas shall within the same time appoint four of such Examiners for said City and County; such Medical Examiners shall be able and learned in the science of medical jurisprudence, who shall have been in the active practice of their profession for at least five years; such Medical Examiners shall be selected and appointed without reference to political or partisan considerations and solely by reason of their fitness and professional attainments for the office.

SEC. 2.—The examiners so appointed shall hold their office for the term of seven years, and until their successors shall be appointed and enter upon the duties of their office, but they shall be liable to removal by the said Judges appointing them, or by their successors in office, for cause shown, after service of written charges and opportunity afforded for defense.

If a vacancy shall occur in said office, for any cause other than expiration of term, the said Judge shall, without delay, fill such vacancy for the unexpired term.

SEC. 3.—In the Counties of New York and Kings, each of the medical examiners so appointed shall receive in full for all services performed by him under this act the sum of five thousand dollars per annum, to be paid quarterly out of the treasury of said counties, respectively; and in the other counties of the State, the said examiners, respectively, shall receive for each view made by him five dollars; for a view

and autopsy twenty dollars, and travel fee of five cents per mile to and from the place of view, to be paid by the County Treasurer upon proper authentication of the charges, and approval of the District Attorney.

SEC. 4.—Each medical examiner, other than those appointed for the County of Kings and the City and County of New York, before entering upon the duties of his office, shall execute a bond with sureties to the Treasurer of the County in the sum of five hundred dollars conditioned for the faithful performance of the duties of his office; and the examiners for the said County of Kings and the City and County of New York shall execute a like bond with sureties in the sum of five thousand dollars. If any person so appointed shall neglect to take the oath of office or execute said bond for thirty days after his appointment, he shall be deemed to have declined the office, and the said Judge shall appoint another in his stead.

SEC. 5.—In case the Board of Aldermen of any city, other than New York and Brooklyn, shall deem it necessary to have a separate medical examiner for said City and shall so certify to the County Judge, and shall fix his salary or compensation to be paid out of the treasury of the city, the said County Judge shall appoint a medical examiner for said city, to hold his office for the period which shall be prescribed by said Board of Aldermen, who shall take the oath of office, and give the bond required by said board.

SEC. 6.—The medical examiner who shall be appointed and qualify pursuant to this act shall make all the examinations as hereinafter provided, upon a view of the body of any person reported or supposed to have been slain, or suddenly died, or dangerously wounded, or to have died

from criminal violence, or by a casualty, or suddenly when in apparent health, or when unattended by a physician, or in any suspicious manner.

SEC. 7.—Whenever a médical examiner shall have notice that there has been found, or is lying within his district, the body of a person dead or wounded, as stated in the last above section, it shall be his duty to visit and take charge of the body, carefully examine the same, and diligently inquire into the cause and manner of the death or wounding, and make an autopsy if it shall appear to be necessary to ascertain the cause of death, or whether a crime has been committed, contributing thereto; and if it shall appear to said examiner that there is no reason to suspect that a crime has been committed which occasioned or contributed to the death, he shall thereupon make a careful statement in writing in duplicate, setting forth every fact and circumstance tending to show the condition of the body, and the cause and manner of death, and the grounds of his conclusion, together with the names and address of any person or persons by whom such facts and circumstances may be known, which statement so made by said examiner, or caused to be made by him, shall be subscribed by such examiner; and one without delay shall be delivered to the nearest Coroner, and the other to the District Attorney of the county, whereupon the examiner shall give the requisite certificate of death; and in case the person whose body shall have been so examined shall appear to have been a stranger or non-resident of the county, and no relatives or friends shall undertake the burial, he shall give order for the burial, and the expense thereof shall be paid by the City or County Treasurer, as the case may require, upon the said examiner's certificate to the reasonable-



ness thereof. If an autopsy shall be made, it shall be so made as to enable a record thereof to be made and preserved, and to show the actual state and condition of all the vital organs, and in full detail, and shall be reduced to writing and signed by the examiner making the same.

SEC. 8.—Notwithstanding such examiner shall be of the opinion that there is no reason to suspect that a crime has been committed, and shall so state, if the District Attorney shall be of a contrary opinion, and shall so certify to the Coroner to whom such statement shall have been delivered, said Coroner shall thereupon institute an inquest, to be held in accordance with the provision of this Act, in which case the said examiner shall state and certify any autopsy made as hereinbefore provided.

SEC. 9.—If, upon such examination, the examiner shall be of the opinion that death was caused by violence, and a crime was committed therein, or he shall entertain doubts upon the subject, he shall so report in his statement of his examination to the Coroner and the District Attorney. On the receipt of such report and statement, the said Coroner shall without delay institute and prosecute an inquest into the facts and circumstances of such death, and he shall have full power and authority, and it shall be his duty to issue subpoenas for witnesses and cause them to be served, and compel their attendance, and to hear such inquest, and to consider the facts and circumstances proved before him; on which inquest the said Coroner may in his discretion direct the witnesses to be kept separate so that they cannot converse with each other until they shall have been examined; and he may also exclude all witnesses who shall attend an inquest as such from the place of hearing, until they shall be



called for examination respectively. The District Attorney or some person designated by him may attend the inquest and examine all the witnesses, and such Coroner shall have and exercise all the powers of a committing magistrate upon such inquest, may hold to bail or commit, and exercise all the powers and duties of a court having jurisdiction of the preliminary inquiry in such cases ; but these powers shall be confined to such inquests as are provided for in this act.

SEC. 10.—The said Coroner, after hearing the testimony, shall draw up and sign a report, in which he shall find and certify when, where and by what means the person deceased came to his death, his name, if known, and all the material circumstances attending his death ; and if it shall appear that his death resulted wholly, or in part, from the unlawful act of any other person, he shall further state, if known to him, the name of such person, and of any person whose unlawful act contributed to such death, which report, with the minutes of the testimony taken, he shall file with the District Attorney, and a copy of the report, and a substantial statement of the testimony with the Clerk of the County.

SEC. 11.—If the Coroner upon such inquest shall find that murder, manslaughter or criminal assault has been committed, he shall bind over as in criminal prosecutions before a committing magistrate such witnesses as he shall deem necessary, or as the District Attorney may designate, to appear and testify before any magistrate upon any complaint to be made for such offence upon notice, or before the next Court, to be held in said county, having a grand jury by which an indictment may be sought.

SEC. 12.—If the person or persons charged in the report of said inquest, with the unlawful act which occasioned or con-

tributed to said death, shall not be in custody, said Coroner shall forthwith issue process for his apprehension, which shall be made returnable before such Coroner, who, upon such apprehension, shall take such proceedings as might upon like arrest be taken by and before a committing magistrate.

SEC. 13.—The medical examiner may, if he deems it necessary, call a chemist to aid in the examination of the body, or of substances supposed to have caused or contributed to the death, and such chemists shall be entitled to such compensation for their services as the medical examiner shall certify to be just and reasonable, the same to be audited and paid by the treasurer of the city and county, as the case may require, on approval of the District Attorney.

SEC. 14.—The witnesses who shall attend upon an inquest shall be allowed the same fees, and their attendance may be enforced in the same manner, and they shall be subject to the same penalties, as if served with a subpoena in behalf of the people in a criminal prosecution pending before any committing magistrate.

SEC. 15.—It shall be the duty of any person who may become aware of the death or mortal wounding of any person requiring view or examination as aforesaid, to forthwith notify the nearest medical examiner of the assembly district or city, as the case may be, and any willful or culpable neglect to give such notice shall constitute a misdemeanor, and upon conviction thereof shall be punished accordingly.

SEC. 16.—When services shall be rendered by any person or persons in bringing to land the dead body of a person found in any of the harbors, rivers or waters of this State, the medical examiner of such district may allow such compensation for such services as he shall deem reasonable, but this

provision shall not entitle any person to compensation for services rendered in searching for such dead body.

SEC. 17.—In all cases arising under the provisions of this Act, the medical examiner shall take charge of any money or other personal property of the deceased found upon or near the body, and deliver the same to the person or persons entitled to its custody or possession; but if not claimed by such person within sixty days, then to a public administrator or to the County Treasurer, as the case may require, to be administered upon according to law; and any medical examiner who shall fraudulently refuse or neglect to so deliver such property within three days after due demand upon him therefor, shall be punished by imprisonment in the common jail two years, or by fine, not exceeding five hundred dollars, and, on conviction thereof, he shall forfeit his office, which shall thereby become vacant.

SEC. 18.—The medical examiner shall return an account of the expenses of each view or autopsy, including his fees, in those counties where fees are allowed by this act, to the County Treasurer of said County, verified as to the correctness thereof, which shall be paid by said treasurer to the persons entitled.

SEC. 19.—If for any cause the medical examiner, whose duty it shall be to make the examination hereinbefore provided for, shall be unable to view and examine a body lying in his district, the next nearest examiner in the county shall be notified, if there shall be any such, and if not, then the nearest in an adjoining county, and he shall view and examine the body, and make and deliver his statement to the Coroner and District Attorney as aforesaid, and if done by an examiner of another county, the fees and expenses thereof

shall be certified to and paid by the Treasurer of the County where the body shall lie.

SEC. 20.—The Boards of Supervisors for the respective counties of this State, after this act shall take effect, are hereby authorized by resolution to reduce the number of Coroners to be thereafter elected in and for their county, to not less than one, except in and for the city and county of New York, in which the number shall not be reduced to less than two; said resolution shall be duly certified and delivered to and recorded by the County Clerk; and thereafter no greater number shall be elected in and for said county than so determined by said board.

In all cases of the election of a Coroner, after passage of this Act, he shall be an attorney and counsellor at law of at least five years' practice; and it shall be his duty to institute and prosecute inquests and perform the other duties prescribed herein for a Coroner.

SEC. 21.—The prohibition contained in the first part of the Revised Statutes, Chapter V., Title IV., Section 27, shall not apply to the Coroners to be elected under this act, but he shall not practice as an attorney or counsel in any action or proceeding in which he shall be required to act in the place and stead of a Sheriff, nor shall it be lawful for him to act as attorney or counsel in any prosecution or defense of any person prosecuted for any alleged crime, charged or disclosed in any statement of a medical examiner, delivered to him, or in any inquest instituted or conducted by him pursuant to this act.

SEC. 22.—It shall not be lawful for any undertaker or other person to inter the body of a person described in the foregoing sixth section of this act, except upon a certificate of

death signed by the medical examiner having charge thereof.

SEC. 23.—All laws, acts and parts thereof providing for Coroners' juries and inquests by and before them are hereby repealed. And all the duties imposed, and power and authority conferred by any existing law of this State upon Coroners respecting the view, examination and inquest upon dead bodies except as prescribed in this act, are hereby abrogated, and said laws so far as they relate thereto are repealed. And all laws and acts and parts thereof inconsistent with this act are hereby repealed.

SEC. 24.—For the purpose of the appointment and qualification of Medical Examiners, this act shall take effect immediately. And it shall take effect generally upon the first day of July next.

# REPORT OF THE SELECT COMMITTEE

## ON PROPOSED AMENDMENTS TO THE

### LUNACY LAWS.

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*To the Legislature of the State of New York :*

The undersigned committee, appointed by the Medico-Legal Society of New York, have had referred to them the report of the Commissioners appointed by Gov. H. M. Hoyt of Pennsylvania, made to the Legislature of that State, dated January 2d, 1883, with the bill proposed by that commission, now pending before the Legislature of Pennsylvania, also the report of the permanent commission of the Medico-Legal Society of New York, upon the Senate Resolution of the State Commissioner in Lunacy, and the Attorney General of the State heretofore submitted to your body by that commission.

This committee has been instructed by that Society to submit such amendments to the existing Lunacy Laws of this State as are needed for the safety of the citizen and the proper commitment, care, discharge, treatment and visitation of the insane in the form of a bill to be introduced to your body, and to urge upon you the importance of the proposed changes in the existing laws. We do not feel at liberty to



propose a new and complete Lunacy system for your consideration now, but to submit amendments to the existing statutes.

The salient points upon which Legislation is most needed are :—

1. As to commitments and discharges.

2. As to enforced visitation after the manner of the English system, and the protection of the insane in their rights, insure them against abuses and provide them with the best methods of care and treatment, and

3. The establishment of a Board of State Lunacy Commissioners, adequate to perform and thoroughly superintend the service, of men of the first standing in the State.

No other system of visitation has ever been found so effective as the English system of a Board of Lunacy Commissioners which consists of eleven members, and of which Lord Ashley is chairman, who serves without pay or salary. Of the other members three are required by law to be barristers of ten years' standing or upwards at the Bar, three are physicians of ten years' practice and upwards, and the remaining four are not required to be of either profession, and serve without compensation. The salaries paid to the six commissioners who are physicians and barristers over and above their traveling and other expenses while actually employed, is fifteen hundred pounds sterling each, or about \$7,500. They are appointed in England by the Lord Chancellor, who fills vacancies.

They are forbidden to hold any other office, situation, profession or employment, from which any gain or profit is to be derived, and they hold their offices during good behavior. It is the unanimous opinion of this committee that unless

men of the first class be named from the professions of law and medicine upon this commission, who will devote their time and attention to it, that the service will not be well performed and the effort prove a failure, and that either a salary commensurate with the value of such services as are needed, which would secure the ablest talents, should be provided, or no salary whatever should be named.

Commissioners appointed on this service should hold rank for ability on the legal side equal to judges of the higher courts, and be of the highest professional standing among medical men, such as are selected in England. The salary of the present Commissioner in Lunacy is fixed at \$4,000, but he is not required to visit each patient separately, as it would be impossible for him to do so, nor is he required to give up his lucrative practice, nor his chair as a professor in his Medical College. In the Bill proposed visitation of every insane person confined in the State separately is provided to be made once in every six months by at least one of the Commissioners. In England this visitation is enforced by law once in every four months, and each patient is separately and privately examined by at least one of the Commissioners. The estimated number of insane persons in the State is now over 10,000, and the labor of visitation, if properly done, will be very great.

The subject has received that careful attention which its great importance demands, and the accompanying bill is submitted, which it is hoped may be found to meet the public needs, insure proper care, treatment, and visitation of the unfortunates for whom it is your duty to provide and remedy to some extent existing evils and abuses, and above all

restore public confidence in the administration of our Lunacy system.

Dated New York, March 8th, 1883.

Respectfully submitted,

CLARK BELL,

W. H. ARNOUX,

GEO. H. YEAMAN,

B. A. WILLIS,

JACOB F. MILLER,

M. H. HENRY, M. D.,

A. H. SMITH, M. D.,

*Committee.*

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MESSAGE OF GOVERNOR HENRY M. HOYT, OF  
PENNSYLVANIA,

AND

REPORT OF COMMISSION TO EXAMINE INTO THE PRESENT SYSTEM  
FOR THE CARE OF THE INSANE OF THAT STATE.\*

*To the Senate and House of Representatives :*

GENTLEMEN : In May, 1882, I requested John F. Hartranft, Richard C. McMurtrie, Joseph A. Reed, M.D., S. Weir Mitchell, M. D., J. T. Rothrock, M. D., L. Clarke Davis and George L. Harrison to examine into the present system for the care of the insane in the State, and inquire into the legislation of other States and countries, and report the re-

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\*Read before the Medico-Legal Society at the February meeting, 1883.

sult of their investigations with their conclusions and recommendations for the further protection and amelioration of the insane.

This request was, in no possible sense, intended to discredit the labors and inquiries of the Board of Public Charities on this subject, but as a wider range of examination was contemplated than the official duties of the Board required and an outlay of money which the Board had no legal right to expend, it was deemed proper to accept the voluntary contribution of the time and money tendered by the gentlemen named. This commission was constituted of persons who possessed a high order of learning and experience on the question, and whose professional reputations demanded the most conscientious and practical consideration and action. It is safe to ask you to accept their conclusions, contained in the accompanying report and proposed act of Assembly, with a large measure of confidence.

HENRY M. HOYT.

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## REPORT.

PHILADELPHIA, *January 2, 1883.*

Governor HENRY M. HOYT,  
*Harrisburg.*

DEAR SIR: Your Excellency appointed a commission on May 23, 1882, to "consider the question of the care of the insane in this Commonwealth, the mode of their introduction into public and private asylums, the general scope of their treatment, the mode of their supervision and release,

which are believed now to be inadequately guarded and provided for; to examine into the present system, and inquire into the legislation of other States and countries, and report the result of their investigations, conclusions and recommendations for the further protection and amelioration of the insane."

This commission have the honor to report, in response to the above application, a scheme of legislation on the subject referred to them, which was reached after careful thought and extended investigation and research, in conformity with your expressed wishes. This result received the unanimous approval of the commission, and indicates the direction of the most moderate and conservative thought upon the subject.

The commission beg leave to accompany their proposed bill with an explanation of the facts and reasons which operated with them in the pursuit of their work, and to indicate the grounds upon which they have based their action. They venture, also, to make some suggestions, which may be convenient to your Excellency in determining upon your own course in the premises. They are able to set before you, in aid of your deliberations, indexed copies of all the lunacy laws of all the States and Territories of the Union, and the legislation of each State upon the selected topics upon which your commission have recommended legislation at this time. The laws of Great Britain, France and Germany will also accompany those of the United States.

Topics of the act proposed by the commission :

#### COMMITTEE ON LUNACY.

Your commission are convinced, that in order to do full



justice to the administration of an office having charge of the interests of so large a number of the wards of the State, whose condition appeals with peculiar emphasis to her sympathy and care; an office, also, which the public demands for protection against all possible risks of mistake or wrongdoing, in the detention of a citizen, for an indefinite period, in establishments of any sort for the insane, where all the rights of persons and property are jeopardized—that, for so grave a service over so large a territory, a special commission should, in some sort, be provided for to act as a central board, with authority to appoint visitors in the several counties to represent the commission, and a secretary or agent fully and specially qualified to act for them, in carrying out the provisions which the law requires in the premises.

This course has been pursued practically in numerous instances; and, also, where a board of State charities is in existence. The commission, however, has concluded to propose a measure which will preserve the oversight of the Board of Public Charities, and, at the same time, impose upon a committee of that Board, to be enlarged for the purpose, the special service required by this act. In fulfillment of their views, they have proposed that three additional members shall be given to the Board of Public Charities for this special service, one of whom shall be a physician of at least ten years' practice, and one a lawyer of the same term of practice. That the Board of Public Charities shall add two of its members as now appointed, thereby creating a committee on lunacy, which shall serve under this act, with the aid of a secretary with a proper salary, to be appointed for this particular duty and service.



## COMMITMENTS.

The present law authorizes any two doctors of medicine, whose "respectability" is vouched for by a magistrate, to certify to the insanity of a citizen, and this action insures his commitment for an indefinite time to a hospital. They may have graduated at the date of this certificate, and may be chiropodists or dentists. Such a determination of the question of insanity may consign a citizen wrongly to any hospital for the insane. As to alms-houses, private houses, or asylums, there is no law to guard his liberty. The commission has given whatever protection seemed possible and practicable under any and all circumstances. Whatever appeared necessary to secure competency and impartiality of the signers of the commitment certificate, and due investigation of their professional repute by the magistrate has been required. The magisterial certificate as to the standing, &c., of the physicians would have been confined to that of a judge of a court of record, but that, for a considerable portion of the year, such service could not be had in the larger part of the Commonwealth. It has also further guarded the safety of the alleged lunatic, by requiring the prompt investigation and action of the medical superintendent of the institution to which such person may be sent.

## CORRESPONDENCE.

The propriety of exercising a censorship over letters written by patients in any establishment for the care of the insane, is thought unjust and injurious, and postal facilities have been provided for, in their behalf, by the act of the commission, as is the case in Massachusetts and some other

States. It is questionable whether a prohibition of the right of correspondence can be maintained legally, except in cases where parties have forfeited the rights of citizenship.

#### CRIMINAL INSANE.

The justice and humanity of providing for this class of insane were early felt by the judges of the criminal courts, who were, under the law of 1836, required to commit to close custody persons acquitted of crime on the ground of insanity, there being, at that time, no place open to them but the penitentiaries and county jails. They, therefore, with other humane and philanthropic citizens, memorialized the Legislature, in 1839, to establish a hospital for the insane, and for authority to be given the courts to commit to it all persons acquitted of crimes on the ground of insanity. In 1845, the State hospital, at Harrisburg, was completed, and gave proper protection to the rights of the poor and criminal insane, and satisfied the judges who had the responsibility of disposing of them. But by more recent legislation, obtained in 1861, and thereafter for the State lunatic hospitals, without the petition, knowledge, or approval of the judiciary, the humane legislation of the act of 1845 was practically annulled, and has virtually obstructed the ends of justice and reason. The commission has recommended a substitute for this wrongful legislation, which will re-establish the former status of this class, as it existed from 1845 to 1861, during which period the courts and the community were satisfied with the propriety of the law.

#### DISCHARGES.

It has occurred, not only that sane persons have been cou-

signed to institutions for the insane, but that such persons have been frequently detained there, and legitimate patients, also, after they have sufficiently recovered to justify their release from confinement. It has been thought, therefore, that the officers of hospitals for the insane should be held to strict accountability and be made legally liable for all improper or unjust detention of such cases.

It is, therefore, recommended that section seven, act of April 20, 1869, P. L. p. 80, be repealed, as it relieves officers of hospitals for the insane of all responsibility for any detention, if *committed* according to law. The commission advises the adoption of a section, in lieu thereof, making the medical superintendent liable to a civil action if it be shown, by judicial sanction, that he has acted in bad faith, or negligently, towards the patient.

The commission recommend, also, that indigent patients restored, when discharged from the hospital, be suitably clothed and furnished with a small sum of money, sufficient to carry them home.

Also, that the Committee on Lunacy, (to be created,) shall have power to discharge patients improperly committed or detained, or if found not insane.

#### VISITORS.

The formal, stated, perfunctionary visitations of officials to hospitals for the insane, is not all that even the present laws on the subject contemplate. The visit should be solely in the interest and for the protection of the rights of the inmates of these institutions, and the officials should be expected to offer every facility to enable such visitors to ful-

fill their duty ; and these visitors should not be deterred by any impression—generally unfounded—that a reason exists in any case for reserve in investigating the condition of a patient. There exists no such mystery in these matters as should prevent an intelligent and judicious person from investigating the condition and the needs, so far as his general well-being is concerned, of any patient in an institution. This fallacy is not suffered to exist in Great Britain. It has been long since it was recognized there, and also in many States of this country. The idea, if made practical, must hinder the usefulness of all visitations.

The commission has provided for the requisite inspection of all places where the insane are detained, and for the proper observation of the condition and needs of the inmates.

#### VISITS OF FAMILY PHYSICIAN.

While the commission felt strongly the importance of providing the insane patient with the best medical skill and advice for the treatment of bodily disease, which is possible, there is an obvious difficulty in requiring the physician of the hospital, although mainly a specialist, to consult with an outside practitioner. The provision for such intervention has therefore been so guarded as to satisfy the most jealous alienist. At the same time, the physician named by the family or near friend, will be allowed to visit and examine an insane patient, at any time, with the consent of a judge, and to prescribe for bodily ailments with the consent of the chief physician of the institution. Even this cautious and restricted privilege will be gladly welcomed by insane patients and their friends.

## PRIVATE HOUSES.

There has been no legal government of these places for the reception of the insane, heretofore, in this Commonwealth, although several exist, and one, at least, is largely occupied. They are liable to grave abuses, but, under stringent statutory provisions, they are important and highly satisfactory to certain classes of patients. There exist in England certain private houses, which are most comfortable homes for these sick people, and where opportunities exist for employment and diversion and individual treatment, which are impossible in the larger hospitals. The commission have proposed the recognition of these institutions under such regulations as will secure the protection of the sane and the insane.

## DISCHARGES, CONTINUED.

The authority and duty to discharge rests primarily, under this act, with the medical attendant of the institution, upon the recovery of the patient. If, however, the discharge is not granted, and on a hearing upon a writ of *habeas corpus*, the respondent has been found in error, he must pay the costs and other charges of the proceeding, unless the judge orders otherwise.

For the further relief of such persons, power is given to three members of the lunacy committee or a committee of visitors with one of this body, to discharge; which is a necessary provision, and one which is invariably made in all cases where a lunacy committee exists.

In conclusion, I beg to say that the commission was aware

that other considerations might be given to the question referred to them, which would suggest further legislation. But they deemed it inexpedient to enlarge their proposal at this time ; being assured that an honest and faithful observance of the provisions of the proposed act will satisfy very largely public expectation, and greatly benefit the class in whose behalf legislative relief is asked for. It may not be inappropriate, however, to append to these explanations of the work of the commission, the following *suggestions* :

#### SUGGESTIONS.

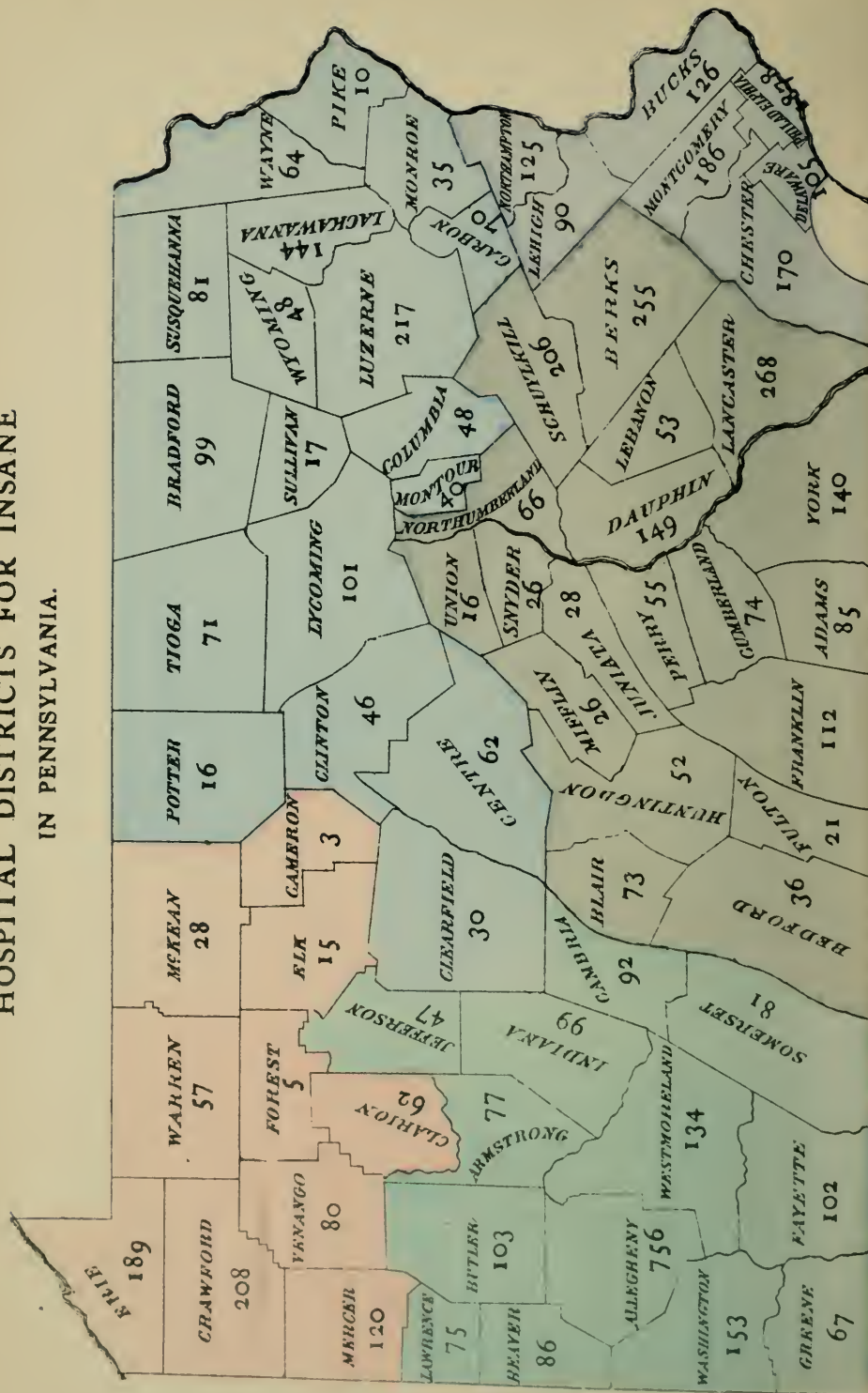
Having now given to your Excellency the reasons for the legislation the commission has recommended, we will venture, in the further discharge of the duty imposed upon us, to make the following "suggestions" for the amelioration of the condition of the insane :

*First.* The hospital districts should be re-organized. The population of the State by the census of 1880 was 4,282,891, of which number 8,259, or one-fifth of one per cent., were insane. If we assign the insane who were in the public and private hospitals on June 1, 1880, to the respective counties of which they were residents, we shall obtain the true number of insane belonging to each county, which will enable us to ascertain the exact number in each hospital district. This we have done, and the following tabular statement exhibits the number of counties in each hospital district, their aggregate population, number of insane, and also capacity of hospital, and per cent. of insane of the district which it can accommodate :





IN PENNSYLVANIA.



HOSPITALS AND DISTRICTS.	Counties.	Population.	No. of Insane.	Capacity of Hospitals.	Percent. of Insane of District provided for.
State Lunatic Hospital, Harrisburg, . . .	19	1,007,693	1,741	400	22.9
Western Pennsylvania Hospital, Dixmont, . . .	13	897,915	1,872	400	21.4
State Hospital, Danville, . . . . .	18	712,756	1,199	700	58.3
State Hospital, Norristown, . . . . .	7	1,288,183	2,680	726	55.6
Philadelphia Hospital, (Blockley,) . . .				766	
State Hospital, Warren, . . . . .	10	376,344	767	750	97.7
Totals, &c., . . . . .	67	4,282,891	8,259	3,742	45.3

It will be observed that provision has been made for the accommodation of 3,742 insane persons, or 45.3 per cent. of the whole number of that class. But, with this inadequate provision, it is clear that "all parts of the State are not equally benefited;" hence, we suggest that the hospital districts should be re-organized. The Harrisburg hospital has provision for only 22.9 per cent. of the insane of its district, Dixmont, 21.4 per cent., Norristown, including the insane department of Blockley, 55.6 per cent., and Warren hospital has accommodation for 97.7 per cent., or for nearly all the insane of its district. We here give a diagram showing the counties in each hospital district, also the number of insane residents of each county. (See diagram opposite).

*Second.* Admission of patients into the State hospitals should be restricted to residents of the district where the hospital is located. If the hospital districts are re-organized, as suggested, upon a basis that will equally benefit all parts of the State, the restriction we here suggest will tend

to continue that policy. A proviso might be added, to wit: "That if there is room in a hospital, after all resident applicants of the district for admission have been received, then non-residents of the district may be admitted. But non-residents of the hospital district shall not be received or retained to the exclusion of any resident."

*Third.* The chronic or incurable insane should be more economically provided for. The capacity of the State hospitals, including Dixmont and Philadelphia hospitals, we have stated as 3,742; if to this we add the private institutions, to wit: Friend's Asylum, Pennsylvania Hospital, and Burn Brae, it will make accommodations for an aggregate of 4,372, leaving a surplus, without adequate provisions, of 3,887 insane persons to be provided for in alms-houses or elsewhere. While it is possible that a small portion of the chronic insane may be properly cared for in connection with the county poor-houses, the great majority require a supervision and oversight which cannot be extended to them in such places. The condition in which they are kept, as a general rule, in the poor-houses of the State, has frequently been brought to the notice of the Legislature; and, although there has been, of late years, a manifest improvement in their condition and treatment in several of the county establishments, it is impossible, from the circumstances which characterize the whole arrangement, discipline, and government of such institutions, than these insane poor can be otherwise than grossly neglected and foully wronged; for at the best they are simply kept in places of detention, under the guardianship of a respectable overseer, who is wholly ignorant of their disease, and of the means necessary for its alleviation or its cure.

The truest economy in their behalf will be secured by making the well-managed hospitals, or buildings adjacent thereto, the sole receptacles of the insane in the Commonwealth, and by making appropriate legislative provisions for all additions to their present population. There is nothing truer than that the State or county must pay for the support of these defectives during life, unless suitable provision for cure and treatment induces timely restoration. It is, therefore, no more than common wisdom that is applied to the ordinary business of life, to take such measures as will provide the best opportunity of restoration that the age affords. If these dependent wards of the State number some thousands, their claim upon the State, in both a humane and economic aspect, is proportionately multiplied.

It is not considered proper economy, on the part of the State, to continue to erect large and costly hospitals for the reception of the chronic insane; for it has been repeatedly demonstrated that not more than ten per cent. of the inmates of these expensive institutions have any probability of restoration or cure. These large hospitals, with their costly accommodations, may be regarded as necessary for curable or acute cases of insanity, but they are not necessary as places of refuge and protection for the chronic insane, provision for whose care should be made in a simpler and more home-like manner. We therefore suggest the following plan, which we believe will be beneficial to the treasury of the State, as well as to the stricken and helpless beings, whose sad woes appeal to every heart, not only for sympathy, but for sure and permanent relief; and we believe that this is the only practicable alternative measure for their relief from the misery and deterioration suffered under alms-house treatment.



Erect on the grounds of each of the State hospitals, plainly constructed detached buildings, near enough to main building for convenience. These homes can be built substantially, and in perfect adaptation to their uses, and to conform, also, if necessary, with the architectural character of the main building, for five hundred dollars per patient, including furniture and every appliance and appurtenance demanded for their proper administration. They might consist of a single structure for each department, to accommodate two hundred patients, or, as in the case of the Willard Asylum for the Insane in the State of New York, of groups of buildings for each department, with accommodations for fifty patients. *No more than a proportionate number should be given to each hospital.* This is a reasonable and practicable plan for the relief of the helpless wards of the Commonwealth, who are thrust out of sight and into the county poor-houses, and who remain there year after year in hopeless wretchedness. By this plan the State might readily charge the counties a very moderate sum for the care of these patients.

*Fourth.* The acute or recent cases of insanity should receive prompt treatment on first attack. By the adoption of the plan suggested for making provision for the chronic or incurable insane, it will leave ample room in the large hospitals for all acute or recent cases of insanity, to be admitted with the special object of their recovery; and, also, for an admixture, if desirable, of chosen chronic cases; and, for this purpose, no necessary expense should be spared to place the curative cases, which are in large hospitals, on a basis equal, as regards appliances, etc., for medical care and treatment to that of the best general hospital in the country.

It seems important, that convalescent wards be provided for



patients whose mental rehabilitation is largely established; where the apartments, surroundings, and associations will accord with the varied habits and tastes, morally, socially, and intellectually, of the patients whose health is so nearly restored, as to make distasteful the old surroundings of their invalid state. This measure is deemed a most essential complement to the high medical skill and oversight and the effectual nursing care which has brought the patients to this improved condition.

It is the neglect of the acute or recent cases of insanity which has so largely added to or accumulated the number of insane, and it is doubtful if insanity itself has developed to the extent its growing numbers would at first lead us to suppose. We have no evidence of any increase in the number of new cases in proportion to the population, and it seems clear that the increase in numbers is largely due to the accumulation of chronic or incurable insane, and also, to some extent, to the fact that of late years the conception of insanity has been so liberalized that there are now, indeed, reckoned as among insane, persons who, twenty years ago, would not have been so regarded.

It is of vital importance that efforts be made to have all recent cases of insanity placed under proper hospital treatment, if such treatment be advisable, before they approach a chronic condition and threaten to become a burden upon the resources of the State during the remainder of their natural life.

*Fifth.* Nurses and attendants of hospitals should be trained. The great desideratum for hospitals for insane is a corps of trained nurses and attendants. The superintending physician is clearly accountable for the conduct of these impor-

tant subordinates, as he has, by law, their appointment, exercises the entire control over them, and has the direction of their duties. The utmost care should be exercised in their selection, by inquiry and investigation into their antecedents, and only those who are known to be of good character, conscientious, and possessed of adequate ability, patience, and forbearance should be employed. It is difficult to obtain attendants possessing the proper qualifications for the amount of compensation allowed them. The office is one of exacting and often distasteful service, and a superior class of persons often shrink from the position, because they are required to perform the most menial and repulsive work. This might be remedied by the adoption of the plan pursued in some States, of having the more refined and educated class of attendants, and employing menial servants to do the drudgery of the wards.

As it is only in the hospitals that nurses and attendants can be practically trained for their difficult duties, a training school for their instruction should be established in each of the State hospitals, where proper training, at the hands of the superintending physician or his assistants, can be secured.

*Sixth. EMPLOYMENT.*—If greater attention and effort were made to furnish the inmates of the hospitals with useful occupation and exercise, it would add largely to the restoration of the patients. It cannot be expected that patients, who are month after month, and year after year, confined in the wards of an insane hospital, with but little diversion of mind or opportunity of bodily improvement or invigoration, can possess many chances of recovery from a malady which demands the nearest possible approach to perfection in these resources for relief from the peculiar infliction which they suffer.

The want of these alleviations is the potent cause of the discontent which prevails so largely in all asylums for the insane; which prompts the perpetual solicitation for release from painful incarceration. Most patients are not only able but desirous to do some active work, and often crave it. Of course there are exceptions, but the general rule should be to provide occupation, which is productive of good results.

The large farms connected with hospitals for the insane, afford ample facilities for the occupation of the larger proportion of the men, in gardening and other work upon the grounds. With others, the *ennui* of hospital life might be advantageously relieved by industrial work of a different nature. It would also be found entertaining and useful to have patients, who are in condition of health for such employment, instruct their fellow patients in some educational branches. Educational facilities of all grades, as far as practicable, might be furnished in hospitals; many patients would gladly instruct others in the rudiments of education, the higher branches, music, &c., and this exercise might be a potent agent for their earlier restoration to sound reason, and, as no expense would attend this effort, the experiment might be made the more easily.

It is well known that cures have been effected in almost hopeless cases by giving suitable and acceptable work to the insane, and it always promotes the comfort, and even happiness of the partially insane. Employment is urged solely upon the ground of its influence upon the patient, not from any motive of profit to be derived from it, and it is believed to be a most effective therapeutical measure, often more composing than the administration of medicinal sedatives. In France, work-shops for patients are just as much a

part of their system of treatment as any other instrumentality or agency employed to promote their restoration.

Thus we should seek to give these helpless ones contented minds, and hasten their relief by drawing their thoughts away from their mental infirmity; and relieve the hospital of its prison aspect by some occupation congenial to their peculiar habits and tastes, as modified by their malady.

*Seventh.* RESTRAINTS.—If there were more exercise and useful occupation, there would be less employment of mechanical, or even medicinal restraints advocated and practiced by some superintendents.

In English hospitals, restraints are considered injurious; they rely solely upon moral influence of suitable kind, occupation, and exercise; and have found by experience, that when patients have had such reasonable treatment, there was no need of mechanical restraint of any kind. This statement is based upon unquestionable personal knowledge and observation.

In institutions in this country, where the abolition of restraint apparatus has taken place, the same results have followed. "To-day," says one of these superintendents, "we use no straight-jacket, straps, etc., \* \* \* The absence of restraint and the occupation of the patients has been most satisfactory; the patients have been quieter, more happy, and many have recovered, while working, who, otherwise, would not have done so, or would have recovered much more slowly. I have become convinced that a great deal of liberty can be allowed most patients, and that to their advantage and happiness."

If restraints are used at all, they should be restricted to patients of a suicidal or homicidal tendency, and be applied

only by the personal direction of the superintending physician. But in all other cases their use might be advantageously prohibited.

We remain, dear sir,

Yours, respectfully,

(Signed,)

JOHN F. HARTRANFT,  
RICHARD D. MCMURTRIE,  
JOSEPH A. REED, M. D.,  
S. WEIR MITCHELL, M. D.,  
J. T. ROTHROCK, M. D.,  
L. CLARKE DAVIS,  
GEORGE L. HARRISON,  
*Commissioners, &c.*

PHILADELPHIA, *January 2, 1883.*

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## ANALYSIS OF THE ACT SUBMITTED WITH THE REPORT OF THE PENNSYLVANIA COMMISSION.

SECTION 1.—Provides for Central Board with supervision over all houses or places where insane persons are detained when compensation is paid for same, or where more than one person is detained with or without compensation.

SEC. 2. The Central Board shall consist of the Board of Commissioners of Public Charities and three additional names appointed by the Governor for five years, with power of removal.

SEC. 3.—The Board shall appoint a committee of five to act as Committee on Lunacy, and the three additional names



shall be members of that committee. Secretary with salary of \$3,000, appointed by and removed at pleasure of Committee on Lunacy

SEC. 4.—Lunacy Committee shall examine the condition of the insane, management and condition of hospitals, public and private almshouses, and all other places where insane are kept, and report same to Governor on or before December 1 in each year.

SEC. 5.—Empowers and directs committee how to act and make needful rules and regulations.

SEC. 6.—Their report shall be published with, but separate and distinct from, the report of Board of Public Charities.

SEC. 7.—Empowers the board with consent of Chief Justice of Supreme Court and the Attorney-General to make rules and regulations, if not in conflict with existing laws or following matters:

1. Licensing private houses for keeping insane.
2. Regulations against improper treatment or detention of such persons in such cases.
3. Regulations of the forms to be observed regarding commitment, transfer, custody or discharge of all lunatics, others than those committed on order of the Court.
4. The visitation of all houses or places licensed, or of persons confined therein.
5. The withdrawal of licenses, and the importance of conditions under which they shall continue.
6. Report and information to be forwarded by keepers of private houses or by Board of Visitors.
7. Regulations as to number of persons to be confined, food, clothing, fuel, restraints, treatment, manner of detention, means of communication of persons detained as insane.



SEC. 8.—Provides further appointment of Board of Visitors to be appointed, not less than three persons, and more, if deemed necessary.

SEC. 9.—These visitors to be appointed by the Committee on Lunacy for one year, to continue till their successors are appointed, with power of removal and to fill vacancies.

SEC. 10.—Women eligible as members of Board of Visitors.

SEC. 11.—Forbids keeping house for detention or treatment of insane without a license, and makes violation a misdemeanor.

SEC. 12.—Makes it a misdemeanor for any keeper of a house to violate the regulations so adopted by the Lunacy Committee.

SEC. 13.—Provides for visitation of all insane persons, inspection of houses and places of confinement, mode of treatment once each month by a member of the committee or by a visitor in each county, once in six months by a committee of at least three persons, one of whom shall be a member of the Lunacy Committee, and annually by a majority of State Lunacy Committee.

SEC. 14.—Provides for rules insuring patients, rights of admission of proper visitors, friends, agents, attorneys or members of family, and to enforce it.

SEC. 15.—Detention of any person as insane without compliance with the requisitions of the act to be a misdemeanor, with right of action for damages to the aggrieved party.

SEC. 16.—Compliance with the provisions of the act shall fully protect any person, unless the judge, after trial and verdict, shall certify that there was proof to his satisfaction that the party charged acted with gross negligence or cor-

ruptly, or that he acted without reasonable or probable cause, or was actuated by motives other than the good of the person restrained.

SEC. 17.—Provides that a book shall be kept in all places where insane are detained, subject to the inspection of Lunacy Committee or Board of Visitors :

1. An admission book.
2. A discharge book.
3. A case book, and having each patient's case in detail.
4. A medical journal, in which at least once a week shall be written all matters of importance bearing on treatment and condition of patients.

SEC. 18.—Provides for commitments.

1. Certificate by two physicians of five years' practise, that person is insane, and that person should be placed for treatment in asylum, and that they are not related by blood or marriage with the insane person, or in any wise connected as medical attendant or otherwise with the institute in which it is proposed to place him.

SEC. 19.—This certificate shall have been made within one week of the time of the admission, and shall be sworn before a judge or magistrate of the county where such person has been examined, who shall certify the genuineness of the signatures, and to the standing and good repute of the signers.

SEC. 20.—No person shall be received unless the person who commits him signs a written order that he has been and is insane, and is to be detained, and that such detention is necessary and for the benefit of the insane person, which shall be verified by oath.

SEC. 21.—The persons committing shall also sign and certify by oath a statement of facts relative to the person to be detained, as follows :

1. Name. 2. Age. 3. Residence for past year. 4. Occupation. 5. Parents, if living. 6. Husband or wife. 7. Children. 8. Brothers and sisters and their residences. 9. Name and address of next of kin. 10. A statement of time at which insanity has been supposed to exist, and circumstances indicating its existence. 11. Name and address of all medical attendants of patient for past ten years.

SEC. 22.—If satisfactory answers to these queries be not furnished, through ignorance, and no cause exists to doubt the *bona fides*, the patient may be detained to give time to complete the statement, but not more than seven days.

SEC. 23.—Within twenty-four hours a full record of the case shall be entered in the reception book, and the original papers filed and preserved. The medical attendant shall, within twenty-four hours, examine such patient and reduce the result to writing, and record the same in a book kept for the purpose, with his opinions formed from such examination and from the documents.

SEC. 24.—If medical attendant considers a detention unnecessary he shall, within twenty-four hours, discharge the patient, and convey him to nearest public conveyance.

SEC. 25.—The medical attendant shall advise the patient that he will be allowed to communicate with any person he wishes to see, and shall notify such person or persons, and allow the patient a full and unrestrained interview with them.

SEC. 26.—Copies of commitment papers shall be forwarded to Secretary of Lunacy Commission within forty-eight hours after reception, entered in a book, and a report made every three months by the medical attendant to the Board of Lunacy.

SEC. 27.—Any patient, or member of his family, or near friend may, with the sanction of a judge, designate any physician to visit and examine the patient, and attend him, with consent of physician-in-chief, for all maladies other than insanity.

SEC. 28.—All patients to be furnished with materials for communicating under seal with any person without the building, and letters shall be stamped and mailed daily and communications as patients desire shall be written as dictated, mailed and sealed.

SEC. 29.—The Act not to apply to admission or discharge of insane criminals. They shall only be received or discharged by order of a court, and on proper case shown, courts shall order such to be sent to a State hospital for treatment, from jail or prison.

SEC. 30.—Trustees, managers or physicians shall not discharge criminal insane except on order of a court of competent jurisdiction, nor shall an order for a removal of such case except upon due notice to the Committee on Lunacy, and these to investigate the case.

SEC. 31.—All persons (except convicted and sentenced as criminally insane) shall, as soon as restored to reason, and competent to act for themselves in the opinion of the medical attendant, be forthwith discharged. Habeas corpus lies in all cases, and the respondent in the writ shall pay costs and charges of the proceeding, unless the Judge certifies that there was sufficient ground, in his opinion, to warrant the detention.

SEC. 32.—Committee on Lunacy to be notified of all discharges within 24 hours, and the same entered by the secretary.

SEC. 33.—Any three members of the Lunacy Committee, or of the Board of Visitors of a county, with one or more members of the Lunacy Commission, may order or compel the discharge of any patient (except criminally insane, committed after trial and conviction for crime or by order of a court) on notice to the Superintendent of the Asylum, and to the persons who committed the patient, and reasonable opportunity to answer, but no member shall sign order for discharge without personal examination of the patient.

SEC. 34.—Persons may voluntarily place themselves in an institution for seven days only at a time, the agreement must be signed in the presence of an adult friend of the patient, and of person in charge of house or medical attendant.

SEC. 35.—Amend act of April 20, 1869, No. 54, pamphlet laws of 1869, and cases covered by that act, are to be committed under the provisions of this act.

SEC. 36.—Amend § 2 of said act, which makes it a misdemeanor to intercept, delay or interfere with letters to counsel, so as to extend it beyond “superintendent, officer, physician or other employees,” as were provided for to all “superintendents, officers, physicians, servants or other employees of all hospitals, houses or places which are subject to the provisions of this act.”

SEC. 37.—Amend § 10 of that act, as to responsibility of superintendent or officers, as is there provided, to the provisions of this act for all houses, hospitals or places under the provisions of this act.

# THE POISONOUS PROPERTIES OF NITRATE OF SILVER.

AND

A RECENT CASE OF POISONING WITH THE SAME.

BY HENRY A. MOTT, JR., PH. D. \*

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Of the various salts of silver—the nitrate, both crystallized (argentic nitrate  $\text{Ag. N O}_3$ ), and in sticks, (lunar caustic lapis infernalis) is the only one interesting to the toxicologist.

This salt is an article of commerce, and is used technically and medicinally.

Its extensive employment for marking linen, in the preparation of various hair-dyes (Eau de Perse, d'Egypte, de Chiene, d'Afrique) in the photographer's laboratory, &c., affords ample opportunity to use the same for poisoning purposes.

Nitrate of silver possesses an acrid metallic taste and acts as a violent corrosive poison.

When injected into a vein of an animal, even in small quantities, the symptoms produced are† dyspnœa, choking, spasms of the limbs and then of the trunk, signs of vertigo, consisting of inability to stand erect or walk steadily, and finally retching and vomiting and death by asphyxia. These symptoms, which have usually been attributed to the coagu-

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\* Read before the Medico-Legal Society at the session of April 4, 1883.

† Nat. Dispensatory—Stille and Mæsch—1879—p. 232.



lating action of the salt upon the blood, have been shown not to depend upon that change, which, in fact, does not occur, but upon a direct paralysing operation upon the cerebro-spinal centres and upon the heart, but the latter action is subordinate and secondary, and the former fatal through asphyxia.

One-third of a grain injected into the jugular vein killed a dog in four and a half hours with violent tetanic spasms.\*

Devergie states that acute poisoning with nitrate of silver administered in the shape of pills, is more frequent than one would suppose. Yet Dr. Powell† states that it should always be given this way, as the system bears a dose three times as large as when given in solution. The usual dose is from one-quarter of a grain to one grain three times a day when administered as a medicine.

In cases of epilepsy Dr. Powell recommends one grain at first, to be gradually increased to six.

Clocquet‡ has given as much as 15 grains in a day and Ricord has given 16 grains of *argentum chloratum ammoniacale*.

Cases of poisoning have resulted from sticks of *luna caustic* getting into the stomach in the process of touching the throat; such a case was reported by Boerhave,|| and in one case, according to Albers, a stick of *luna caustic* got into the trachea.

Von Hassalt, therefore, urges the utmost caution in using *luna caustic*; the sticks and holder should always be carefully examined before use.

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\* Med Jurisprudence—Thomas S. Traill—1457—p. 117.

† U. S. Dispensatory—18 ed.—p. 1049—Wood & Bach.

‡ Hand. der Giftlehre, von A. W. M. Von Hasselt, 1862—p. 316.

|| Virchow's Archiv. Bd., XVII., S. 135—1859.

An apprentice to an apothecary attempted to commit suicide by taking nearly one ounce of a solution of nitrate of silver without fatal result. It must be remarked, however, that the strength of the solution was not stated.

In 1861 a woman, fifty-one years of age, died\* in three days from the effects of taking a six-ounce mixture containing fifty grains of nitrate of silver given in divided doses. She vomited a brownish yellow fluid before death. The stomach and intestines were found inflamed. Silver was found in the substance of the stomach and liver.

It is evident that the poisonous dose when taken internally is not so very small, but still it would not be safe to administer much over the amount prescribed by Ricord, or 16 grains; for in the case of the dog mentioned, one-third of a grain injected into the jugular vein produced death in four-and-a-half hours.

The fact that more can be taken internally is explained by the rapid decomposition which this silver salt is liable to undergo in the body by the protein substances and chlorine combinations in the stomach.

The first reaction produced by taking nitrate of silver internally is a combination of this salt with the protenaceous tissues with which it comes in contact, as also a precipitation of chloride of silver.

According to Mitscherlich the combination with the protein or albuminous substances is not a permanent one, but is gradually decomposed by various acids, as dilute acetic, lactic and hydrochloric acid.

The absorption of the silver into the system is slow, as the

\* *Treat. on Poison*—Taylor—1875—p. 475.

albuminoid and chlorine combinations formed in the intestinal canal can not be immediately dissolved again.

In the tissues the absorbed silver salt becomes decomposed and oxide and metallic silver separate.

Partly for this reason and partly on account of the formation of solid albuminates, etc., the elimination of silver from the body takes place very slowly. Some of the silver, however, passes out in the fæces, and according to Lauderer, Orfila and Panizza, some can be detected in the urine. Bogolowsky\* has also shown that in rabbits poisoned with preparations of silver the (often albuminous) urine and the contents of the (very full) gall bladder contained silver.

From the investigations of Mayencon and Bergeret, it has been shown in men and rabbits, that the silver salt administered is quickly distributed in the body and is but slowly excreted by the urine and fæces.

Chronic poisoning shows itself by a peculiar coloring of the skin (*Argyria Fuchs*), especially in the face, beginning first on the sclerotic. The skin does not always take the same color, it becomes in most cases grayish blue, slate, and sometimes a greenish brown or olive color.

Von Hasselt thinks that probably chloride of silver is deposited in the rete malpighie, which is blackened by the action of light, or that sulphide of silver is formed by direct union with the sulphur of the epidermics.

That the action of light is not absolutely necessary, Patterson states, follows from the often simultaneous appearance of this coloring upon the mucus membrane, especially that of the mouth and upon the gums, and Dr. Frommann, Her-

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\* Jour. de l'Anatomie et de la Physiologie, 1873, p. 398, also Gas. Med. de Paris—1868—No. 39.

mann\* and others have shown that a similar coloring is also found in the internal parts.

Versmann found 14.1 gm. of dried liver to contain 0.009 grms. or 0.047 per cent. of metallic silver. In the kidneys he found 0.007 grms. chloride of silver or 0.061 per cent. of metallic silver, this was in a case of chronic poisoning, the percentage will be seen to be very small.

Orfilau, Jun., found silver in the liver five months after the poisoning.

Lionvillet† found a deposit of silver in the kidneys, surrenal gland and plexus choroidens of a woman who had gone through a cure with luna caustic five years before death.

Sydney Jones states that in a case of an old epileptic, who had been accustomed to take nitrate of silver as a remedy. The choroid plexuses were remarkably dark, and from their surface could be scraped a brownish, black soot-like material and a similar substance was found lying quite free in the cavity of the fourth ventricle, apparently detached from the choroid plexus.

Attempts at poisoning for suicidal purposes with nitrate of silver are in most cases prevented from the fact that this salt has such a disagreeable metallic taste, as to be repulsive; cases, therefore, of poisoning are only liable to occur from accident or by the willful administration of the poison

Such a case occurred quite recently to a very valuable mare belonging to August Belmont.

I received on December 6, 1882, a sealed box from Dr. Wm. J. Provost, containing the stomach, heart, kidney, por-

\* *Leh. der Exp. Tox.* Dr. Hermann, Berlin, 1874—p. 211.

† *Gas. Med.*, 1868, No. 39. *Trans. Path. Soc.* XI vol.

tion of liver, spleen and portion of rectum of this mare for analysis.

Dr. Provost reported to me that the animal died quite suddenly, and that there was complete paralysis of the hind quarters, including rectum and bladder.

The total weight of the stomach and contents was 18 lbs., the stomach itself weighing 3 lbs. and 8 oz.

Portions were taken from each organ, weighed and put in alcohol for analysis.

The contents of the stomach was thoroughly mixed together and measured, and a weighed portion preserved for analysis.

The stomach when cut open was perfectly white on its inner surface, and presented a highly corroded appearance.

The contents of the stomach was first submitted to qualitative analysis and the presence of considerable quantity of nitrate of silver was detected.

The other organs were next examined and the presence of silver was readily detected, with the exception of the heart. The liver had a very dark-brown color. A quantitative analysis of the contents of the stomach gave 59.8 grains of nitrate of silver. In the liver 30.5 grains of silver calculated as nitrate was found (average wt., 11 lbs.)

From the analysis made there was reason to believe that at least one-half an ounce of nitrate of silver was given to the animal. Some naturally passed out in the fæces and urine.

I was able to prepare several globules of metallic silver as also all the well known chemical combinations, such as sulphide, chloride, oxide, iodide, bromide, bi-chromate of silver, etc.

From the result of my investigation I was led to the conclusion that the animal came to death by the willful administering of nitrate of silver, probably mixed with the food.

The paralysis of the hind quarters mentioned by Dr. Provost accord perfectly with the action of this poison, as it acts on the nerve centres, especially the cerebro-spinal centres, and produces spasms of the limbs, then of the trunk, and finally paralysis.

I might also state in this connection, that only two weeks previous to my receiving news of the poisoning of the mare, I examined for Mr. Belmont the contents of the stomach of a colt which died very mysteriously, and found large quantities of corrosive sublimate to be present.

Calomel is often given as a medicine, but not so with corrosive sublimate, which is usually employed in the arts as a poison.

It is to be regretted that up to the present moment, even with the best detectives, the perpetrator of this outrage has been at large. I understand, however, that all suspicious persons have been removed.

Surely the very limit of the law should be exercised against any man who would willfully poison an innocent animal for revenge upon an individual.

Cases have been reported in England where one groom would poison the colts under the care of another groom, so that the owner would discharge their keeper and promote the other groom to his place.

A few good examples, in cases where punishment was liberally meted out, would probably check such unfeeling outrages.



## EDITORIAL DEPARTMENT.

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### LUNACY REFORM.

No little space is given in our first number to this topic, which is beginning to excite profound public interest.

The action of our State Senate and the permanent commission of the Medico-Legal Society, the contemporaneous action of the commission appointed by the Governor of the State of Pennsylvania, and the pending measures before our State Legislature on the several questions are given at length in this number.

There seems little division of public sentiment in favor of:

1. Increased safeguards to the liberty of the citizen, and to prevent improper commitments.

2. The adoption of a Board of Commissioners in Lunacy after the English system with power of discharge.

3. The adoption of a thorough system of visitation, supervision and inspection of all the insane, and of all asylums.

Some of the leading superintendents are classed as opposed to such changes as unnecessary and unwise, but the popular voice is almost entirely in one direction. The difficulty is twofold, in knowing what is best to be done, and in inducing the Legislature to consider questions of this character, when political and partisan issues are before them which more powerfully arrest their attention.

The Legislature as recently constituted did not seem willing to investigate questions of public interest. While the Committee of the House reported the bill favorably as reported by the Select Committee of the Medico-Legal Society, and while there were strong endorsements from the press

and while public sentiment strongly favored changes in the lunacy laws, political and partisan measures received attention to the exclusion of these more important subjects.

#### THE CORONER'S OFFICE.

The movement for reform in the Office of Coroner met with a similar fate. The carefully drawn bill approved by the society failed to come to a vote in either body.

Measures of great public nature, which strike at the general interests of the whole people, seem to require patience, discussion and much time. It is many years since the agitation commenced which was utilized in Massachusetts, the value of which is universally conceded. We must not be impatient. It takes time—and to the sanguine or impatient what seems a long time—to accomplish results. These delays are unavoidable, and in the very nature of things. If it takes five years to get rid of the absurdities and incongruities of our coroners' system, as handed down from old English laws, it will be a wonderful success. And if in that time a new system can be framed which shall be rid of its defects, and commensurate with the public needs and apace with the civilization of the age, we should be more than satisfied.

#### THE MONASTERIO CASE.

Under the law of 1838, in France, any person could be confined in a public or private lunatic asylum on the simple certificate of a medical man. The abuses of this system, culminating in the Monasterio case, have induced the French authorities to modify the law of commitments of insane persons. The Minister of the Interior has recommended to the French Senate the following changes in the existing law :

1. That the medical man, in addition to the usual certificate, be compelled to furnish a full report of the case, detailing the symptoms, a history of its progress, and the actual state of the patient at the time of his last visit.

The patient can then only be committed provisionally, and for observation, without the order of the proper judicial authority and passing through regular legal formalities.

The superintendent of the asylum is required to forward a report of the case and a copy of the certificate of the physician to the Prefect of the Department, also to the "Procureur de Republique" for the Arrondissement where the patient resides, and if in a different district, to the same officer where the asylum is situated.

This officer is bound, within three days after the reception of these papers, to proceed to the asylum, accompanied by a physician selected by himself, whose duty it is to question and examine carefully the patient. This officer has also authority, in his discretion, to conduct an inquiry at the patient's home, as to the mental condition of the patient, his surroundings, and the circumstances which have led to his commitment. This officer, who acts judicially, will then pass upon the propriety of the admission or discharge of the patient, and make his written order in the case to the asylum authorities, and this action must be fully completed within one month.

This step taken by the French Government, which is likely to result in important changes in their system, is worthy our notice in connection with similar abuses in existing American systems in many of the States that have lately come to the public notice, is designed to secure the liberty of individuals and to protect them against personal interests, intrigues, private malice or improper and unwarrantable confinement.

#### STATE CHEMIST.

The recommendations of the President of the Medico-Legal Society for the establishment of a State Chemist, with suitable assistants and a laboratory, to decide officially for the State all questions arising in the courts requiring chemical evidence or testimony, met with the unanimous approval of that body, and a select committee are now

considering this subject, who are instructed to prepare a bill and submit the same to the Legislature of the State. It will doubtless come up for action next winter.

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THE MALLEY TRIAL in Connecticut, while in many respects a *cause celebre*, did not furnish any valuable results to the student of forensic medicine. Neither prosecution nor defense gave the medico-legal questions involved due consideration. The medical evidence should have established beyond question whether the death of Jennie Cramer was by drowning or not. The trial was barren of scientific facts of value, and the medical evidence was so scant and meagre as to leave doubt as to many facts which a proper medical examination should have set at rest.

In the debate in the Medico-Legal Society upon the paper read by Dr. J. Clarke Thomas upon that case, in which the author took the ground that a careful analysis of the evidence given showed strong presumptions that the deceased came to her death by drowning. A physician, who claimed to have had a large experience as deputy coroner, stated that he would not be able to decide by the autopsy whether the death was from drowning or not in any case.

On being interrogated by the President, whether a scientific and trained physician would not be able to decide by the autopsy of a body found shortly after death in the water whether the death was by drowning or not, he stated that no one could tell, and that it was impossible to decide such a question by the autopsy or by any means known to science !

The general opinion has been that death by drowning could be determined by the autopsy.

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#### INAUGURAL RECOMMENDATIONS.

Attention is called to the recommendations of Mr. Clark Bell, in his inaugural address, requesting all superintend-

ants of asylums, judges, district attorneys, or others in either profession of medicine or law, to communicate papers, facts or cases of medico-legal interest to the Medico-Legal Society.

This invitation is extended to scientists and all interested in forensic science throughout the United States and Canada, and if responded to, must enrich the literature of Medical Jurisprudence.

Cases of great public and professional interest are constantly arising in the courts, in asylums for the insane, hospitals, and in private practice, the details and teachings of which would be, if properly given to the public, of commanding importance, and we hope to see valuable results from the recommendations which were unanimously approved by the society.

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THE LIBRARY OF THE MEDICO-LEGAL SOCIETY.—We publish the appeal of the society in aid of its library, which should commend itself to every one interested in a work of so much importance, and to which attention is called.

AN APPEAL IN AID OF A LIBRARY OF MEDICAL JURISPRUDENCE.—Contributions are solicited from lawyers, physicians and others interested in establishing in this city a library accessible to both professions, which shall contain all the works upon the subject of Medico-Legal science in its various relations.

The Medico-Legal Society of New York, has already a fair collection, and the undersigned desires to make it complete at an early day.

A donation of one hundred dollars to this library constitutes the donor a life member of the Society. Two hundred and fifty dollars a patron, and five hundred dollars one of the founders of the library.

It is believed that \$10,000 would purchase every work in the English, French and German tongues now extant.

Since February 1, 1882, more than 200 volumes have been contributed, exclusive of pamphlets. The advantages of such a library to both professions cannot be overestimated. The



contribution of a single volume accepted by the committee entitles the donor to have access to the library. Exchanges will be made with libraries and individuals from duplicates. Those preferring to donate the money can do so, and suitable volumes will be purchased with their contributions. The names of all donors are written in every volume contributed, or purchased for contributors.

The undersigned is in correspondence with the leading libraries and booksellers of the world, and can secure most of the volumes now accessible.

Contributions may be sent to R. S. Guernsey, Esq., 58 Cedar street ; or to the undersigned,

CLARK BELL,

President Medico-Legal Society,  
128 Broadway.

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THE paper read by the Hon. George B. Corkhill, United States District Attorney for the District of Columbia, before the Medico-Legal Society, on "Insanity as a defense for Crime," gave rise to an interesting discussion in the society, as well as in the public press. This paper will appear in our next number as well as a resumé of the discussion.

THE paper read by Wm. G. Davis, Esq., of the New York Bar, on "Presumptions of Death and Mysterious Disappearances," was a second paper on the same subject by the same author contributed to this society. It will appear in our next number, as also the Report of the Committee on Experts and Expert Testimony, and the paper upon the same subject by Judge D. C. Calvin, with a resumé of the discussion.

APROPOS OF EXPERTS.—A legal friend sends us the following: A certain college Professor of Mathematics and Natural Philosophy was in the habit of taking a portion of his class with him on excursions to the open fields and forests



in order to practically illustrate his teachings. On one of these occasions he discovered a cow "cast" in a small hollow. The animal from time to time would make desperate efforts to get up, but in vain. The professor gathered his pupils about the poor creature, and with the aid of a diagram, which he prepared on the spot, he commenced an elaborate lecture on the doctrine of forces—positive, negative and neutral—from which he conclusively proved that each successive struggle made the case more hopeless for the quadruped, and that unless relieved, she must of necessity die where she lay. Just as the demonstration was complete and the Q. E. D. pronounced, the cow by one tremendous effort jumped to her feet and ran off. Said a farmer, who had joined the group a moment before, "that chap must be one of them *Experts!*"

THE *Medical and Surgical Reporter*, in its editorial pages of March 24th, 1883, presents some very kind and encouraging remarks upon the work and usefulness of our society. The editorial gives the complete context of the bill which we have decided to urge upon the Legislature, and which will set aside the existing deficiencies in the present mode of investigations as executed by coroners. We thank Brother Brinton for his support.

THE acquittal of Dr. Forbes of the charge of complicity in grave-robbing gives universal satisfaction, and indicates the necessity of definite legislation upon the subject.

BETTER THAN EMBALMING.—Dr. H. Meyer (*Lyons Medicale*) proposes the use of hermetically sealed glass coffins, and of forcing into them an anti-putrescent gaseous atmosphere, claiming that thus the bodies are preserved in a normal state indefinitely.

PREVENTABLE DISEASES.—The Illinois State Board of Health is issuing an excellent, plainly-written series of "Preventable Disease Circulars." The Secretary of the

Board of Health, Springfield, will send them to whoever applies. Good work might be done in this regard, and proper legislation could compel people to follow the rules set down, at least sufficiently to make its influence felt in the limitation of contagious and infectious diseases.

WEIGHT AND SIZE OF ORGANS.—The office of the Surgeon-General has published a circular which is to be used in collecting information as to the weight and size of the several organs at different ages. The results will be equally interesting and important to physicians as well as to those lawyers who pay especial attention to medical jurisprudence.

REGULATION OF PROSTITUTION.—In Cleveland the "Social Evil Law," similar to that which for about two years ('73-'75) was in force in St. Louis, will be tested. Two years barely sufficed to give it a fair trial in St. Louis, where an extraordinary amount of political, social and theological influence succeeded in rescinding the law. In that brief time an elegant hospital was constructed from the profits yielded from the collections from prostitutes; a number of the unfortunates were reformed and crime in brothels materially reduced. After the abrogation of the law prostitutes voluntarily retained the physicians who had been employed by the city.

PREGNANCY WITH UNRUPTURED HYMEN is not rare, yet in a forensic sense each case is interesting. Dr. Hyernaux, Surgeon of the *Bruxelles Maternité*, reported to the Belgian Royal Academy of Medicine such a case of a woman of twenty, who came to the *Maternité* with false labor pains. She was found to have an almost imperforate hymen. Careful search revealed an aperture which admitted only a small probe. The hymen was incised and measured 5 mm. in thickness. A week later she was delivered, after natural labor of a few hours.

INSANITY IN SPAIN.—Statistics show that there is one in sane person to every 2,250 of the entire population. One of the *Revistas* is edited, managed, written, composed and printed by inmates of a *Manicomio*. To alienists and those interested in the legal rights of the insane, this is a most instructive journal. We expect and are prepared to see some remarks on “publication of journals are evidence of insanity.”

PLACE AUX DAMES.—The Minnesota Senate has passed a bill requiring factories and stores to provide seats for their female employees.

RIGHT-HANDEDNESS.—Dr. Goëtan Delaunay, in a communication to the Société Anthropologique Française stated that among savages left-handedness exists to a greater extent than among civilized people.

THE Bar Association of New York have been requested by the General Term of the Supreme Court to inquire and report as to the claim of a disbarred lawyer who petitions for reinstatement. This is a graceful recognition of the right of the legal profession to determine upon the fitness of men who aspire to the dignity and responsibility of counsellors.

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#### MICHIGAN'S NEW WILL LAW.

The following is a copy of the “Act to provide for the establishment of wills during the life of testators,” which has just become a law in Michigan and has attracted general attention :

SECTION 1. The people of the State of Michigan enact, That to any will heretofore or hereafter executed the testator may make and annex his petition, to be sworn to before and presented to the judge of probate for the county where the testator resides, asking that each will be admitted and established as his last will and testament.

SEC. 2. Every such petition shall contain averments that such will was duly executed by the petitioner, without fear, fraud, importunity or undue influence, and with a full knowledge of its contents, and that the testator is of sound mind and memory and full testamentary capacity, and shall state the names and address of every person who at the time of making and filing the same would be interested in the estate of the maker of such will as heir if such maker should at the making of such petition become deceased, and may also contain the names and addresses of any other persons whom such testator may desire to make parties to such proceedings.

SEC. 3. Such circuit judge or judge of probate shall thereupon, upon request of such testator, appoint a time for the hearing of such petition, and issue citations to the parties named in such petition and direct published notice of such hearing, and have such hearing after proof of service of citations and of publication of notice, in the manner, as near as practicable, as is required for the probate of wills.

SEC. 4. If any person named in such petition shall be a minor, or otherwise under disability a guardian *ad litem* shall be appointed by such judge to represent such person. On such hearing such circuit judge or judge of probate shall examine into the matters alleged in such petition and into the testamentary capacity of such testator, and examine witnesses in relation thereto, and if it shall appear that the allegations of such petition are true, and that said testator was of sound mind and memory and full testamentary capacity, such judge shall make decree thereon, and shall cause a copy of such decree to be attached to said will, certified under the seal of said court, decreeing that the testator at the making of such will and such petition was possessed of sound mind and memory and full testamentary capacity, and that said will was executed without fear, fraud, importunity, or undue influence, which decree shall have the same effect as if made by said court after the death of testator on the probate of such will; and such will having been so established shall

not be set aside or impeached on the ground of insanity or want of testamentary capacity on the part of the testator, or that the same was executed through fear, fraud, importunity or undue influence.

SEC. 5. Appeals shall lie in the same manner as from probate of wills.

SEC. 6. Nothing in this act contained shall be construed to prevent the revocation of such will, or alteration or other change thereof as in ordinary wills

Whether the Michigan legislator has chosen the proper remedy, is not clear; but some method should be devised for effectually checking the epidemic of contests of wills. A man should have the same unquestioned right to make a gift of his estate taking effect after his death, as he admittedly has to convey property, the deed operating by delivery. The Michigan idea is that a testator shall be permitted to cite his probable heirs at law to show cause why his will should not be incontestible on the ground of his lack of mental capacity. A will deposited in the Surrogate's office after an adjudication upon the sanity of the testator, could then be formally proved in due course. . . . Would this obviate, however, other objections that disappointed heirs may through ingenuity of counsel, be prompted to interpose? The public mind must be educated to the point of believing that a man's property is his own, and does not belong, save in uncertain expectancy, to his cousins.

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#### THE VOLATILE PRODUCTS OF DECAY.

We clip from the *National Druggist Journal* the following interesting article: "An investigation of antiseptic substances has led M. Le Bon to the following interesting conclusions, which we translate from the *Polytechnisches Notizblatt* :

1. The disinfecting power of an antiseptic is weaker the further the decomposition has advanced.



2. The most energetic of the disinfectants are permanganate of potash, chloride of lime acidulated with acetic acid, sulphate of iron, phenol (carbolic acid), and the glyceroborates of soda and potash.

3. There is no connection between the disinfectant power of an antiseptic and its effect upon microbes.

4. Neither is there any connection between the power which prevents decay from setting in and that which checks or stops it when it has once begun.

5. Antiseptic substances in general exert but a slight effect upon the bacteria; an exception is found in those substances, like corrosive sublimate, which are violent poisons.

6. The poisonous action of decaying body has no relation to the poisonous qualities of the volatile alkaloids evolved from the decaying substance.

7. These volatile alkaloids, which form only during advanced stages of decay, are very violent poisons, resembling prussic acid and coniine in toxic effect, showing how injurious the air from graveyards may be under certain circumstances, even when there are few if any microbes present."

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#### INEBRIETY AND CRIME.

In Dr. Parish's recently published work on alcoholic inebriety, a chapter is devoted to summarizing the evidence against the view that inebriety is a direct cause of crime. It is known that as long ago as 1871 the American Association for the Cure of Inebriates took the ground that inebriety (regarded as a disease) was incidental rather than casual in its relations to crime. It might sometimes create or transmit a kind of criminal diathesis, but it was not often a direct cause. Dr. Parish's statistics bearing upon this point relate to the proportion of intemperate persons found in various penitentiaries.

In one penitentiary there were but 26 intemperate persons among 433 prisoners, in another, there were only four habit-



ually intemperate persons among 534 prisoners. The chaplain of another penitentiary confessed that he did not know of a single prisoner whose crime was the direct result of intemperance.

This and other evidence collected strongly support the author's view, and certainly tend to emphasize the fact that questions of intemperance and inebriety are very slightly understood by the masses. The average intemperance orator will announce every night that intemperance is the cause of two-thirds of the crime in the country.

One of the most important of the social questions of the day is in the hands chiefly of well-meaning but half-informed enthusiasts. We believe that every habitually intemperate man should be treated as a sick man; and the sooner this view gains currency the better for society.

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#### THE ENGLISH CONTAGIOUS DISEASES ACTS.

Considerable excitement and interest exists in England over the motion adopted in the English Commons on April 20th, last, "That this house disapproves of the compulsory examination of women, under the Contagious Diseases Acts."

The vote was 182 for to 110 opposed—a majority of 72.

It will be remembered that the report made last August, by the select committee of the House, strongly recommended the compulsory examination, and it is difficult to understand what has produced such a revulsion of feeling in Parliament.

The medical and scientific world must sustain the action of the committees, and the beneficial results of the acts have been generally claimed and conceded.

It is not easy to foresee just what will be the effect of a complete change in the law, so as to fully carry out the resolution.

It is a great question, and may hardly be considered as settled by the recent vote.

We cannot see how far the action may have been influ-

enced by partisan considerations or to sentimentalism regarding what may be called licensing the social evil, and so shall watch the result with considerable interest.

It would, however, be a serious mistake and a retrograde movement if any question of sentiment should be allowed to check the humane and beneficent work claimed for the actual workings of the English laws upon this very interesting phase of the social evil and its difficult problems.

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#### THE ENGLISH GOVERNMENT MEDICAL REFORM BILL.

No question of greater interest to medical men in Great Britain can be found than that of the struggle now going on in the English Parliament to settle by law the questions as to who should be registered as physicians.

The scheme is to have a general governmental medical council, who shall pass upon the licensing of practitioners and insure equality in and uniformity in the curriculum and examination of medical men.

The latest phase of the proposed law is the establishment of conjoint Examining Boards, formed by the representatives of all the medical authorities existing in each division of the kingdom under the supervision and control of a Central Medical Council with full powers.

If the amended acts, as now considered, shall result in a law, it will be greatly for the public interest and good, and will settle the questions which have so long agitated the public mind there.

The questions of medical ethics, which so excite and divide the medical men in this country and particularly in this State, would be admirably settled if left to such a plan in the American States.

The outlook in England at the present moment is favorable for the passage of a general law which would settle all these questions.

Can we hope for a similar result in New York?

It is the easiest solution and will doubtless be attempted in many of the States.

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THE MEDICO-LEGAL SOCIETY OF FRANCE.

M. Chaudé, President of the Société de Médecine Legal et de France, pronounced his retiring address on January 8, 1883, before that society. He reviewed the labors of the society during the two years he has occupied the chair, and paid a high tribute to his successor, M. Brouardel.

M. Brouardel, recently elected to the presidency, made an able inaugural address on assuming the presidency of the society, at the same session, paying a high tribute to the memory and services of the former Presidents of the body, reviewing the labors of Devergie especially, and concluded by proposing a vote of thanks to the retiring President for the zeal, the impartiality and ability with which he had so successfully conducted the labors of that office.

The following is a list of the officers of that society elected for 1883 : President—M. Brouardel ; Vice-Presidents—MM. Blanche, Baudet ; Secrétaire Générale—M. Gallard ; Secrétaires de Séances—MM. Leblond, Lutaud ; Archiviste—M. Ladrut de Lacharrière ; Trésorier—M. Mayet ; Membres de la Commission Permanente—MM. Chaudé, Galland, Descourt, Devilliers, Pinard, d'Herbelot, Motet, Polaillon, Legrand du Saulle, Gram ; Membres de Conseil de Famille—MM. Chaudé, Chopin, de Arnouville, Devilliers, Le Fort, Lunier ; Membres de Comité de Publication—MM. Gallard, Rocher, Demange, Descourt, Leblond, Lutaud.

SOCIÉTÉ DE MÉDECINE PUBLIQUE, PARIS, has elected the following officers for 1883 : President—M. Wurtz ; Vice-Presidents—MM. Durand-Claye, Kaechlin-Schwartz, Henry Louville, Proust ; Secrétaire Générale—M. H. Napias ; Assistant do.—M. A. J. Martin ; Archiviste—M. Marchal ; Treas-

urer—M. Thevinot ; Sec. des Seances—H. Faurie de Thierry Pasteau and V. du Claux.

M. Brouardel, who was the President of this society last year, retires and assumes the Presidency of the Medico-Legal Society of France.

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THE COMMITTEE OF THE MEDICO-LEGAL SOCIETY ON TRANSLATION of works from the French, German and other languages upon Medical Jurisprudence are arranging to subdivide the labor among the several members so that by the close of the year it will be able to report valuable results to the society. If the translation of a given work is divided among several it will lighten the labor, and expedite the work. The committee is large and contains names that insure good work, and we hope to see important results and valuable contributions to forensic literature from the labor of this committee.

THE NATIONAL ASSOCIATION FOR THE PROTECTION OF THE INSANE AND THE PREVENTION OF INSANITY has decided to publish its proceedings and principal papers in a quarterly journal. The first number has appeared containing some of the more important papers read at the annual meeting of the association last January in Philadelphia. The journal will render valuable service to the cause of the lunacy reform—it advocates advanced ground

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#### OBITUARY COMMENTS.

It is rare that one observes the peculiar type of mind which permits itself to indulge in witticisms at the expense of the dead. A recent writer in the *Lancet*, however, who possesses this peculiarity, commenting upon the death of Dr. George M. Beard, says, epigrammatically, that he expended most of his attention upon matters which ordinary men did not think worth paying any attention to. Dr. Beard's studies, thus alluded to, covered such subjects as

trance or hypnotism in its relations to evidence, and various problems in morbid and what may be termed "border-land" psychology. Dr. Oliver Wendell Holmes, who, some years ago, speculated upon these same things, anticipated the criticisms thus made by the kindly writer over the water. "There is," says Holmes, "just on the verge of the demonstrable facts of physics and physiology, a nebulous border-land which what is called 'common sense' perhaps does wisely not to enter, but which uncommon sense, or the firm apprehension of privileged intelligences, may cautiously explore, and in so doing find itself behind the scenes which make up for the gazing world the show which is called Nature."

We do not know that anything could better offset the *Lancet's* ungenerous estimate of the kind of work which occupied, after all, only a fraction of the late Dr. Beard's attention.

## TRANSACTIONS OF THE MEDICO-LEGAL SOCIETY.

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The annual meeting of the Society was held at Mott Memorial Hall, December 6, 1882, the president, Mr. Clark Bell, in the chair, and a very large attendance.

Upon recommendation of the Executive Committee the following gentlemen were elected members: Judge Noah Davis, Judge Charles Donahue, Judge Miles Beach, Hon. Wm. Dorsheimer, Hon. W. S. Andrews, John D. Coughlin, Esq., Dr. Ed. Sanders, Dr. George S. Conant, John F. Baker, Esq., W. Burke Cochrane, Esq., Assistant District Attorney H. C. Allen, Joseph Cushman, M.D., Abram Kling, Esq., Robert F. Little, A. E. McDonald, M.D., H. S. Oppenheimer, M.D., H. S. Gilbert, M.D.

Dr. E. W. Wight, of Detroit, Michigan, read the paper of the evening, entitled "Experts and Expert Testimony."

E. Sanders, M. D., submitted a paper entitled, "Our Coroners System, shall it continue to exist"—which, owing to the business of the evening, was read by title and ordered printed.

The thanks of the society were tendered Dr. Wight for his instructive paper, which was ordered to be discussed at a future meeting.

The interest of the meeting centered in the annual election of officers. There was an exciting contest on the Presidency. On motion it was ordered that the balloting proceed for that office by itself. The chair appointed as tellers, Hon. Geo. H. Yeaman, Dr. Graemme M. Hammond, and Gilbert R. Hawes. Several candidates had been placed in nomination, all of whom withdrew except Clark Bell, Esq. and W. A. Hammond, M.D. The tellers reported the vote for Mr. Clark Bell 62, for W. A. Hammond, M.D., 51 votes. Mr. Bell was



declared duly elected. The society proceeded to the election of the remaining officers, and the following gentlemen were duly elected :

First Vice-President, Prof. R. O. Doremus ; Second Vice-President, Hon. D. C. Calvin ; Secretary, Leicester P. Holme, Esq. ; Assistant Secretary, Gilbert R. Hawes, Esq. ; Treasurer, Jacob Shrady, Esq. ; Librarian, R. S. Guernsey, Esq. ; Curator and Pathologist, Andrew H. Smith, M. D. ; Corresponding Secretary, Morris Ellinger, Esq. ; Chemist, Prof. C. A. Doremus. For Trustees, E. H. M. Sell, M.D. ; Hon. B. A. Willis ; Permanent Commission, Hon. A. G. Hull, M. H. Henry, M. D. The society adjourned to attend a banquet.

#### THE BANQUET.

Over one hundred gentlemen sat down to an elegant banquet at 10 o'clock P. M., at the Hotel Brunswick, in the large hall, which was brilliantly illuminated. The President-elect, Mr. Clark Bell, presided, and a brilliant company, composed of gentlemen of both professions, with representatives from the bench and the medical colleges. Speeches were made by the chairman, Mr. Clark Bell, ex-Gov. Stewart L. Woodford, Hon. Delano C. Calvin, Judge W. H. Arnoux, O. W. Wight, M. D., of Detroit, Judge Church, of Pennsylvania, Prof. A. Jacobi, Hon. B. A. Willis, Andrew H. Smith, M.D., Chas. A. Leale, M.D., Hon. Jacob F. Miller, Morris Ellinger, Esq., Judge Freeman I. Fithian, Gen. Geo. W. Palmer, Jacob Shrady, Leicester P. Holme, Gilbert R. Hawes, and others.

It was a most enjoyable evening, and the event was one of great interest and profit to the society.

#### MEETING, JANUARY 3, 1883.

The installation of officers. There was a large attendance, the President, Mr. Clark Bell, in the chair. The following new members were elected : Hon. S. Hepburn, Jr., Carlisle, Pa. ; Hon. George B. Corkhill, of Washington, D. C. ; Floyd

Ferris, Esq. ; James Foster, Esq.,—Prof. Arrego Tomassi, of Italy ; and Dr. C. H. Hughes, of St. Louis, Mo., were elected corresponding members on the recommendation of the President.

The installation of officers then took place. The President elect, Mr. Clark Bell, then pronounced his inaugural address.

On motion, the recommendations of the address were considered separately.

The Society unanimously adopted the recommendations regarding the formation of Committees on Translation from German, French and other languages into our tongue

The recommendations upon the Coroners' question were approved unanimously, and on motion, the Committee on Coroners, at the suggestion of the chair, were instructed to bring in the form of a bill at a special meeting to be held January 24, 1883, for discussion.

The recommendations of the inaugural as to the enlargement of the Committee on Publication of the papers of the Society in volumes 2 and 3 were approved, and Dr. Edward Bradley was appointed on that Committee, vice Prof. W. A. Hammond, and Prof. F. S. Sturgis and Hon R. B. Kimball were added to that Committee.

The Society adopted unanimously the recommendations of the Chair in regard to calling upon Superintendents of Asylums, Judges, District Attorneys and members of both professions of law and medicine to contribute direct to the Society cases arising from time to time involving medico-legal questions, and that invitation is extended pursuant to the recommendation of the inaugural.

The recommendations regarding the election of a State Chemist and a State Laboratory were unanimously adopted, and on motion a committee of five were instructed to prepare a bill and submit the same to the Legislature at the present session.

The chair appointed as such committee :

Hon. B. A. Willis, Chairman, Judge W. H. Arnoux, Prof. A. B. Mott, Prof. W. J. Morton, Gen. Geo. W. Palmer.

The recommendations regarding a quarterly journal of medical jurisprudence were, as suggested by the chair, referred to the Executive Committee.

The report of the Permanent Commission in answer to the Senate resolution of January 10, 1882, and the letter of the Attorney-General and State Commission of Lunacy was received, read, and ordered placed on file and, on motion, made the special order for discussion at the special meeting of January 24, 1883.

The report of the Library Committee was read, showing the names of donors and the title of each book donated, in which the donor's names had been entered. Total number of volumes contributed since February 1, 1882, to December 31, 1882, was 376, and 564 pamphlets.

The report also contained names of donors and list of volumes contributed in the years 1873, 1874 and 1875.

On motion the inaugural address, the report of the Permanent Commission, and the library report were ordered to be printed and a copy sent to every member and donors of volumes. Mr. L. Del Monte and Clark Bell were elected life members, having contributed volumes of the value of \$250 and over.

Mr. David Dudley Field was elected a life member, by reason of his contribution of \$100 to the library.

Judge D. C. Calvin announced the death of Albert Herrick, Esq., and moved a Committee on Resolutions expressing the loss sustained by the society in his death, which was adopted. The Chair paid a tribute to the memory of Mr. Herrick, and appointed Messrs. D. C. Calvin, L. P. Holme and Clinton Wagner, M.D., as such Committee. The Committee reported the following Resolutions, which was unanimously adopted. Whereas, since the last meeting of this society, it has pleased Divine Providence to remove from our midst by death, our esteemed associate Albert B. Herrick, in the vigor

of his manhood and the high promise of professional usefulness and success; therefore

*Resolved*, That it is with feelings of profound sorrow that we are called upon to mourn the loss of so intelligent, accomplished and valued a gentleman as a member of this society, and record our sincere regret at his untimely decease.

The Secretary announced that the resignations of Dr. E. C. Spitzka, Dr. E. C. Harwood, Dr. E. N. Brill, Dr. A. M. Jacobus and Mr. George P. Avery had been received and unanimously accepted by the Executive Committee.

SPECIAL MEETING, JANUARY 24, 1883.

The Society met pursuant to adjournment, President Clark Bell, Esq., in the chair.

The minutes of the January meeting were read and approved.

Edward C. Mann, M. D., read a paper entitled "A Plea for Lunacy Reform," which was discussed by several members.

Dr. E. C. Mann made a touching allusion to the death of Dr. George B. Beard, a member of the Society, whose death a few days ago was a shock and surprise to every one. Dr. Beard was one of the first, or at least in the front ranks of the alienists of this country, and in his death the Society and the country, and the profession at large has sustained an irreparable loss.

Dr. Charles L. Dana paid a tribute to the memory and services of Dr. Beard, and proposed suitable resolutions expressive of the loss the Society had sustained in his death, which, on his motion, were unanimously adopted.

The President, Mr. Clark Bell, said: "The chair desires to add his expression of sympathy to those already expressed in regard to Dr. Beard's death. Dr. Beard was one of his earliest friends in this city, and it seemed but a few nights ago that he spent a most pleasant evening with him, and he seemed perfectly well. His death came upon me as a blow.

The Society sustains, in his death, a severe loss, but this loss to the Society is as nothing compared to the loss sustained by the scientific world. You will remember that Dr. Beard was an officer of the National Society for the Protection of the Insane, and his death will come with a telling force on a large circle of friends throughout the United States. I am glad to say that these resolutions have my heartfelt sympathy."

Gilbert R. Hawes, Assistant Secretary, announced the donation by State Lunatic Asylum of North Carolina of its annual report, also that Senator Treanor had furnished the Society with a copy of acts pending before the State Legislature.

The Committee on Coroners submitted a report and recommended a bill which, after general discussion, on motion of Hon. D. C. Calvin, was approved by the Society, and Hon. J. F. Miller was requested to introduce the bill in the Legislature and urge its passage.

The Chair reported that the report of the Permanent Commission had been forwarded to the State Commissioner in Lunacy, the Attorney-General, and to both branches of the Legislature of the State, and that printed copies of the same had been sent each member of the Society.

A general discussion followed upon the report, participated in by Messrs. D. C. Calvin, A. H. Smith, M. D., Dr. R. L. Parsons, Dr. T. H. Kellogg, Dr. R. J. O. Sullivan, E. McIntyre, Esq., G. R. Hawes, Esq., Morris Ellinger, Esq.

The President being called away, Hon. D. C. Calvin, 2d Vice-President, took the chair, and after an informal discussion the subject was continued for discussion at the February meeting and the Society adjourned.

#### REGULAR MEETING, FEBRUARY 14, 1883.

The President, Clark Bell, Esq., in the chair, and a large attendance.



The following gentlemen were, on the recommendation of the Executive Committee, elected to active membership : T. E. Satterthwaite, M. D., B. F. Dawson, M. D., C. G. Garrison, Esq., of Camden, N. J., Charles Milne, M. D., Judge George L. Ingraham, Wm. Whaley, Esq., Henry A. Riley, Esq., Charles S. Miller, Esq., Edward S. Hatch, Esq., Frank Etheridge, Esq., Edgar T. Weed, M.D.

The chair submitted the report of the Commissioners of the State of Pennsylvania, which was read, and the proposed bill, submitted by that Commission, which he stated was at that time before the Legislature of Pennsylvania for action.

The report of the Permanent Commission was then taken up for discussion, which was participated in by Judge D. C. Calvin, Judge Marcus Otterburg, Morris Ellinger, Dr. R. L. Parsons, Dr. A. H. Smith, Mr. D. S. Riddle, C. G. Garrison, Esq., and others.

The Society on motion approved of the Report of the Permanent Commission, with the exception of the clause on page 7 of said Report, in regard to the law relating to the arrest of disorderly persons.

Dr. A. H. Smith thought this clause might be construed as an expression by the Society favoring the arrest of insane persons as disorderly, which he opposed.

Judge Calvin suggested a modification of the language of the clause in question, to obviate any question, and read a proposed modification. The chair, as Chairman of the Permanent Commission, stated that the modification suggested by Judge Calvin was, in his opinion, in accordance with the views of the Permanent Commission, but that it was not incumbent upon the Society to approve or disapprove of the Report of the Permanent Commission. It could not amend a report, but that it could withhold its approval to any part of the report.

After discussion, a motion was carried that the suggestion made by Judge Calvin, as to that part of the clause of the Report, meets with the approval of the Society.



On motion, the report of the Permanent Commission, the report of the Pennsylvania Commissioners, the bill now pending before the Legislature of Pennsylvania, were referred to a select committee to be named by the chair, of which the President should be chairman, with the report and proposed bill, submitted to the Legislature by the State Commissioner in Lunacy and Attorney-General, with instructions to frame a bill and submit the same to the Legislature of this State as early as possible, and before the next meeting of this Society, on proposed amendments to the lunacy statutes of this State. This motion was carried unanimously. The committee was announced :

Clark Bell, chairman; Hon. B. A. Willis, A. H. Smith, M. D., M. H. Henry, M. D., Judge W. H. Arnoux, Hon. Jacob F. Miller, J. Clark Thomas, M. D.

Mr. Bell read letters from Judge Charles Daniels, of the Supreme Court, and Judge Larremore, expressing sympathy with the Report of the Permanent Commission, and regretting their inability to be present, by reason of engagements.

Mr. Bell suggested that the next meeting be held on the 2d or 3d Wednesday of the month.

Carried.

Mr. Riddle moved that discussion of the paper read by Dr. Mann be laid over and made the special order of business for next meeting.

Carried.

Adjourned.

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MARCH 7TH, 1883. STATED MEETING, MOTT MEMORIAL HALL.

Communication was received from Mr. Clark Bell, the President, announcing his illness and inability to be present. Vice-President, Hon. D. C. Calvin in the chair.

The minutes of the February meeting were read and approved.

The following gentlemen were elected to membership on recommendation of the Executive Committee :

Ferdinand C. Valentine, M. D., F. B. Wightman, Esq., Charles H. Ullman, Denver, Colorado ; Bela M. Hughes, Esq., Denver, Colorado ; George B. Skiff, M. D., William W. Strew, M. D., Adam E. Schultze, Esq., Isaac Lewis Peet, M. D., Robert F. Little, Esq., H. A. Johnston, Esq., J. H. Gunning, M. D.

The paper of the evening, entitled "Mysterious Disappearances and Presumption of Death in Insurance Cases," was read by William G. Davies, Esq., of the New York Bar.

On motion the paper of Mr. W. G. Davies was made the order for discussion at future meeting.

The Committee on Medical Experts, in connection with Dr Wight's paper, reported progress, and that the Committee would not be able to submit final report before the April meeting.

Hon. D. C. Calvin, of that Committee, on request of the President, and with the consent of the Committee, read a paper embodying his views upon the question of "Medical Experts" in connection with the paper of O. Wight, M. D.

The paper was discussed, after which the meeting adjourned.

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#### OBITUARY.

GEORGE M. BEARD, M D.—Dr. Beard was born May 8, 1839, at Montville, Conn., and died of pneumonia in the City of New York, on the 23d day of January, 1883. He graduated at Yale in 1862, and in 1866 from the College of Physicians and Surgeons of New York City.

He early became a member of the Medico-Legal Society of New York, taking from the outset an active interest in its labors. He attended the Inaugural meeting in January, 1883, a short time before his death. He was one of the founders of the National Association for the protection of

the Insane, and of the New York Society of Neurology and Electrology. He read a paper before the Medico Legal Society entitled "Legal Responsibility in Old Age, based on Researches into the Relation of Age to Work," also one entitled "Problems of Insanity," another on "Hypnotism."

During the latter part of his life he gave his attention to Medico-Legal studies, almost exclusively contributing much that is valuable to forensic literature.

He was among the foremost alienists of our country, and his reputation was wider extended, especially abroad, than that of any of his contemporaries in years.

The work for which Dr. Beard was best fitted and most peculiarly adapted, and in which, had he lived, he could have been most useful, was doubtless that of lunacy reform.

It is questionable if any of our American alienists had studied the subject more deeply and thorough than had Dr. Beard. He had mastered the English system, both in its legal and practical aspects, and was thoroughly familiar with continental systems.

He recognized the changes needed at home in our laws and asylums, and his death will be felt as a severe blow to that body of thoughtful minds who are now engaged in the consideration of the problems of this interesting question.

In no society, however, in this country, will his loss be more keenly felt than in the Medico-Legal Society of New York, in the success of which he took the liveliest interest.

He was largely instrumental in inaugurating the Medico-Legal Journal, to which he pledged the support of his influence and his pen—but his voice is hushed and his pen laid aside forever. Although cut off in the prime of his manhood he has left, in his printed works, an enduring monument, *Sic itur ad astra*.

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# THE PROPOSED LAW

SUBMITTED BY THE COMMITTEE OF THE MEDICO-LEGAL SOCIETY  
TO THE LEGISLATURE OF THE STATE OF NEW YORK.

SESSION OF 1873.

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AN ACT FURTHER TO AMEND CHAPTER FOUR HUNDRED AND FORTY-SIX OF THE LAWS OF EIGHTEEN HUNDRED AND SEVENTY-FOUR, ENTITLED "AN ACT TO REVISE AND CONSOLIDATE THE STATUTES OF THE STATE RELATING TO THE CARE AND CUSTODY OF THE INSANE, THE MANAGEMENT OF THE ASYLUMS FOR THEIR TREATMENT AND SAFE-KEEPING, AND THE DUTIES OF THE STATE COMMISSIONER IN LUNACY," AND THE ACTS AMENDATORY THEREOF.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows :*

SECTION 1. Section one of article one of title one of chapter four hundred and forty-six of the laws of eighteen hundred and seventy-four, entitled "An act to revise and consolidate the statutes of the state relating to the care and custody of the insane, the management of the asylums for their treatment and safe-keeping, and the duties of the state commissioner in lunacy," is hereby amended so as to read as follows :

SEC. 1. No person shall be admitted to or confined as a patient in any asylum, home or retreat for the care and treatment of the insane, except upon the certificate of two

physicians, under oath, setting forth the facts and nature of the insanity of such person, such certificate to be approved by a judge or justice of a court of record, [or justice of the peace] of the county and district in which the alleged insane person resides, and said judge or justice may institute inquiry, and take proofs as to any alleged insanity before approving or disapproving of such certificate, and said judge or justice may, in his discretion, call a jury in each case to determine the question of insanity; and every approval shall state that he has read the certificate and that in his opinion it is in proper form and constitutes *prima facie* evidence of insanity. But nothing in this section shall be construed to prohibit the admission of any person, competent to his own support, to any institution for the care and custody of the insane in this state, on his written application, accompanied by a certificate of his family physician showing that though the mental condition of the applicant is not such as to render it legal to grant a certificate of insanity, yet, in the opinion of said physician, he would be benefited by treatment in such institution.

SEC. 2. Section second of title one of said act is hereby amended so as to read as follows :

SEC. 2. It shall not be lawful for any physician to certify to the insanity of any person for the purpose of securing his commitment to an asylum unless said physician be of reputable character, a graduate of some incorporated medical college, a permanent resident of the State and shall have been in actual practice of his profession for at least [five] years immediately previous to the giving of such certificate, and the possession of such qualifications shall be certified to by a judge of any court of record, and a copy of such certificate

shall be filed in the office of the clerk of said county. No certificate of insanity shall be made except after a personal examination of the party alleged to be insane by the physician making the certificate, and according to forms prescribed by the [board] of state commissioners in lunacy; the date and place of making the examination shall be correctly stated in the certificate. [The said certificate among other things shall state that each of said physicians has separately examined the person alleged to be insane, and that after such examination he doth verily believe that the person is insane, and that the disease is of a character requiring that the person be placed in a hospital or asylum for treatment and that neither of said physicians has consulted with the other physician concerning the case. The said certificate shall also contain a statement by each physician of the facts and manifestations that he has observed, distinguished from the facts and circumstances which have been communicated to him by others, which shall be separately stated and certified, giving names and addresses of those from whom said facts have been ascertained;] and no judge or justice shall approve any certificate for the purpose of authorizing the commitment of any person to an asylum unless within ten days after the making of said certificate, and no person shall be admitted to any asylum by virtue of such certificate unless within ten days of the said approval thereof. Such approved certificate or a duly certified copy thereof shall authorize the transfer of the insane person from one asylum, public or private, home or retreat, to another, provided not more than thirty days have elapsed since the date of the approval thereof.

SEC. 3. Section three of title one of said act is hereby amended so as to read as follows :

SEC. 3. It shall not be lawful for any physician to certify to the insanity of any person for the purpose of committing him to an asylum of which said physician is either the superintendent, proprietor, an officer or a regular medical attendant therein, [or when he is in anywise related, by blood or marriage, to the person alleged to be insane, or to any member of his or her family,] and whosoever for any corrupt consideration or advantage to himself, or through malice, shall make or join in, or advise the making of any certificate aforesaid, or any approval of the same, or shall knowingly or willfully make any false representation for the purpose of causing any such certificate to be made or approved, whereby any person is declared to be insane and committed to or held in any asylum, shall be deemed guilty of a misdemeanor, and shall be liable to be punished by a fine of not less than one hundred dollars nor more than two thousand dollars, or by imprisonment not less than ten days nor more than one year, in the discretion of the court.

SEC. 4. Section four of title one of said act is hereby amended so as to read as follows :

SEC. 4. Every superintendent of a state asylum or private asylum, institution, home or retreat for the care and treatment of the insane shall, within three days after the reception of any patient, make, or cause to be made, a descriptive entry of such case in a book exclusively set apart for that purpose. He shall also make entries from time to time of the mental state, bodily condition and medical treatment of such patient, together with the forms of restraint employed during the time such patient remains under his care, and in the event of the discharge or death of such patient the superintendent aforesaid shall state in such case-book the circum-

stances appertaining thereto. Within three days after the admission of a voluntary patient to any institution for the care and custody of the insane, the superintendent or chief medical officer of such institution shall forward to the state board of commissioners in lunacy a report of the case, and said commissioners shall keep a record of the facts pertaining thereto. [The said books shall be open to the inspection of any member of the said board of state commissioners in lunacy, or the board of visitors of the proper county.]

SEC. 5. Section five of title one of said act is hereby amended so as to read as follows :

SEC. 5. The county superintendents of the poor of any county or town to which any person shall be chargeable who shall be or shall become insane shall send such person within ten days after the approval of the certificate to any state asylum for the insane by an order under their hands and in compliance with the provisions of this act, and said superintendents shall be allowed a reasonable per diem compensation, and the actual and necessary expenses incurred in the removal of such insane person to a state asylum.

SEC. 6. Section six of title one of said act is hereby amended so as to read as follows :

SEC. 6. In case of the refusal or neglect of any committee or guardian of any lunatic or his relatives to confine and maintain him, or where there is no such committee, guardian or relative of sufficient ability to do so, it shall be the duty of the overseers of the poor or constables of the city or town where any lunatic shall be found to report the same forthwith to the superintendent of the poor, who shall apply to the county judge, special county judge, surrogate, police justice or justice of the peace of such city, county or town, who



upon being satisfied upon examination that it would be dangerous to permit such lunatic to go at large, shall issue his warrant directed to the constables and overseers of the poor of such city or town, commanding them to cause such lunatic to be apprehended and to be sent within the next ten days to some state lunatic asylum, to be there kept and maintained until discharged by law.

SEC. 7. Section nine of title one of said act is hereby amended so as to read as follows :

SEC. 9. If any person being of disordered mind and committed as a dangerous lunatic to any prison, jail or house of correction, as set forth in the preceding section, shall continue to be insane at the expiration of ten days, he shall be sent forthwith to some state asylum for the insane.

SEC. 8. Section twelve of title one of said act is hereby amended so as to read as follows :

SEC. 12. If such insane person is not possessed of sufficient property to maintain himself, it shall be the duty of the father, mother or children of such insane person, if of sufficient ability, to provide a suitable place for his confinement, and to confine him and maintain him in such manner as shall be agreeable to the provisions of this act. But in case his relatives are not of sufficient ability to maintain him, then the superintendent of the poor of the county shall upon his order send such pauper lunatic to any state asylum within ten days.

SEC. 9. Section fourteen of title one of said act is hereby amended so as to read as follows :

SEC. 14. When a person in indigent circumstances, not a pauper, becomes insane, application may be made in his behalf to any county judge, special county judge, judge of the



superior court or common pleas of the county where he resides, and said judge shall fully investigate the facts of the case, both as to the question of his indigence as well as to that of his insanity. And if the judge certifies that satisfactory proof of his insanity has been adduced and that his estate is insufficient to support him and his family (or, if he has no family, himself) while under the visitation of insanity, then it shall be the duty of any judge before whom application for that purpose is made to cause reasonable notice thereof, and of the time and place of hearing the same to be given to one of the superintendents of the poor of the county chargeable with the expense of supporting such person in a state asylum, if admitted, and he shall then proceed to ascertain when such person became insane. On granting such certificate the judge may in his discretion require the friends of the patients to give security to the superintendent of the poor of the county to remove the patient from the asylum as soon as he shall recover. The judge granting said order of indigence shall file all papers belonging to such proceedings, together with his decision, with the clerk of the county and report the facts to the supervisors, whose duty it shall be at their next annual meeting to raise the money requisite to meet the expenses of support of such indigent insane person.

SEC. 10. Title one of said act is hereby amended by adding the following sections :

SEC. 39. Any insane person in any asylum, chargeable to any town or county, who shall not have recovered and who is not likely to be benefited by further treatment therein, or is manifestly incurable and may properly be taken care of in a private family, but whose family cannot support him without public aid, upon the certificate of the superintendent of

the asylum to the conditions above stated may be placed in charge of a private family, and the superintendents of the poor may pay an amount per week to such family, not to exceed the weekly cost for the care and support of such insane person in any of the county or state institutions authorized to receive such insane persons. But the superintendent of the poor shall, from time to time, see that in all cases such persons receive sufficient and proper care.

[SEC. 40. A member or members of each of the boards of managers of the state asylums for the insane shall, without previous notice, visit their respective institutions at least once in each month, and give suitable opportunity to each patient therein who may desire it to make to him or them in private any statements which such patients may wish to make; should the visiting member or members deem the treatment of any person injudicious, he or they shall, or if in the opinion of any two members who have examined any case the cause of commitment no longer exists, or a further residence at the asylum is not necessary, it shall be their duty to report the facts to the state board of commissioners in lunacy.]

SEC. 41. It shall be the duty of the superintendent of each asylum for the insane of this State to furnish stationery to any patient who may desire to write to the authorities of the asylum in which he resides, or to any member of the governing board thereof, or to the State Commissioners in lunacy; and said superintendent shall promptly transmit any such letters so written and addressed without inspection.

SEC. 42. Whenever, in the judgment of the superintendent of any asylum for the insane, public or private, it will be beneficial to any patient residing therein to be sent or taken

temporarily to some specified place as a part of the treatment, and that it is prudent to do so, or that it will be conducive to the recovery of any patient to return home or to his friends, or to be absent on trial, the managers or trustees of such asylum, or any one of the State Commissioners in lunacy, may authorize such patient to be sent or taken to the place designated, or to return to his home or friends, or to be absent on trial, for such time as the superintendent may recommend, providing such patient is not committed under a criminal charge. The certificates of commitment of persons absent as above provided shall remain in force until the discharge is granted.

SEC. 43. A patient who has been admitted to an asylum on his own written application, as provided in section first of this act, shall be discharged on his own application in writing within two days thereafter, and notice of such discharge shall be immediately forwarded to the State Board of Commissioners in lunacy.

Section one of title ten chapter four hundred and forty-six of laws of eighteen hundred and seventy-four, as amended by chapter two hundred and sixty-seven of laws of eighteen hundred and seventy-six, is hereby amended, as follows, by adding thereto the following: There shall be a central board, to be called the State Board of Commissioners in lunacy, who shall have the supervision over all houses or places in which any person of unsound mind is detained, whenever the occupant of the house or the person having charge of the lunatic receives any compensation for the custody, control or attendance other than as an attendant or nurse, and also of all houses or places in which more than one such person is detained with or without compensation paid for

custody or attendance. The said central board so composing the State Board of Commissioners in lunacy shall be constituted as follows: To consist of five members, two of the board who shall be selected and appointed by the Board of State Commissioners of Charities for the term of five years, together with three other persons, one of whom shall be a member of the bar of at least ten years' standing, and one a practicing physician of at least ten years' standing; the three other members shall be appointed by the governor after the passage of this act, without regard to political considerations and with express respect to fitness for the position for a term of five years, or upon any vacancies occurring by death or resignation, for the unexpired term of such appointment, or on expiration of term of service, and the governor, upon sufficient cause, may in his discretion remove any member from office in said central board. The present State Commissioner in lunacy shall be a member of said central board in lieu and place of one of the three additional members so to be appointed by the governor until the term of office expires for which he was appointed, with the same powers and duties of any other member of the said central board. Three members shall constitute a quorum and said central board shall be authorized to exercise all the powers conferred by this act on said State Board of Commissioners in lunacy, and by existing laws upon the State Commissioner in lunacy. The said board shall choose a president and secretary to serve for the current year and annually thereafter. The secretary shall receive an annual salary of three thousand dollars with necessary incidental expenses, to be accompanied with proper vouchers, payable quarterly by the State Treasurer, and may be removed at the pleasure of the said State Board of Commissioners in lunacy.

Section two of said title ten as amended by chapter five hundred and seventy-four of the laws of eighteen hundred and seventy-six is hereby amended so as to read as follows :

SEC. 2. It shall be the duty of such State Commissioners in Lunacy to examine into for themselves, or through their Secretary, and report annually to the Governor on or before the first day of December in each year into the conditions of the insane and idiotic in this State, and the management and conduct of the asylums, public or private hospitals and public or private alms-houses ; and other institutions or places where the insane are kept, which report shall contain full statistics regarding admissions, discharges, births, deaths and causes, number and domicile. And it shall be the duty of the officers and others respectively in charge thereof to give such State Commissioners in Lunacy and their Secretary at all times free access to the insane, and full information concerning them and their treatment therein. The said State Commissioners in Lunacy are empowered and required to execute through themselves, or their Secretary, all the provisions of this act which pertain to their office as set forth therein, and shall direct their Secretary accordingly ; and shall also make such other rules and regulations for their own government and that of their Secretary as are not inconsistent with the provisions of this act. The report of the State Commissioners in Lunacy shall be published annually, and separately and distinctly from that of the State Board of Charities. The said State Board of Lunacy Commissioners shall have power from time to time with the consent of the Chief Justice of the Court of Appeals, and of the Attorney General, to ordain rules and regulations on the following matters, so far as the same are not inconsistent with the laws of this State then in force, and of any provisions of this act.



1. The licensing of all houses or places in which any person can be lawfully detained as a lunatic or of unsound mind upon compensation being paid to, or received by, the owner or occupant of such house or place, directly or indirectly, for the care of such lunatic, and also of all houses or places in which more than one person of unsound mind is detained or resides, provided that this clause shall not extend to any jail or prison.

2 Regulations to insure the proper treatment of persons so detained, and to guard against improper or unnecessary detention of such persons.

3. Regulations of the forms to be observed, warranting the commitment, transfer of custody and discharge of all lunatics, other than those committed by order of a court of record, and as to these, with the consent of the presiding Judge of the court under whose order the person is detained.

4. The visitation of all houses or places licensed under this act and of all persons detained therein.

5. The withdrawal of such licenses and the imposition of conditions under which they shall continue.

6. Reports and information to be furnished by the keepers or managers of all licensed houses or places and by the Boards of Visitors.

7. Regulations as to the number of persons that may be detained and the accommodations to be provided, and food, clothing and fuel to be furnished in any licensed house or building, the manner of such detention and restraints imposed, the means of communication by those detained with relatives, friends and other persons outside the houses and places of detention. The said Lunacy Commissioners shall have power to appoint Boards of Visitors of all houses or places



licensed under this act or in which any person of unsound mind is detained, and for the care or custody of whom, compensation of any kind is received, or where more than one such person is detained. Which said Board of Visitors shall make report of such visitations to the State Board of Lunacy Commissioners. The members of the Board of Visitors shall be appointed by the State Board of Commissioners in Lunacy in each year, and shall continue until their successors are appointed, and the Commissioners in Lunacy may remove the visitors and fill vacancies in the office.

Section three of title ten of chapter four hundred and forty-six, laws of eighteen hundred and seventy-four, as amended by chapter two hundred and sixty-seven, of laws of eighteen hundred and seventy-six, is hereby amended, by striking out the words "the said commissioners," at commencement of section and inserting the words "the secretary of the state board of commissioners in lunacy" in lieu thereof.

Section four of title ten is hereby amended as follows: So that the words "the said commissioner," commencing said section, shall read, "each member of said state board of commissioners in lunacy." The same section is further hereby amended by adding thereto the following: "It shall not be lawful for any person or persons, or corporation to keep or maintain a house or place for the reception or custody of persons of unsound mind, without having received a license under this act, nor when such license has expired, or been withdrawn or suspended, and the keeper and occupant of any such house within which more than one person shall be detained as being a person of unsound mind for compensation received, and the keeper and occupant of any such house or place wherein more than one person is received and detained

with or without compensation, and while there is no license in force authorizing the keeping of such house or place, shall be deemed guilty of a misdemeanor. Any person having charge or control of any house or place used for the detention, care or custody for which a license is required under this act who shall violate or omit to observe any regulation of the Committee on Lunacy authorized by this act, after a copy of the same has been left at the said house or place or delivered to the person named in the said license, shall be deemed guilty of a misdemeanor, and all common-law rights of action or indictments are also reserved."

Section five of said title ten is hereby amended, by inserting the words "to the secretary of the State Board of Commissioners in Lunacy" in place of the words "to the State Commission in Lunacy." Said title ten of laws of eighteen hundred and seventy-four, chapter four hundred and forty-six, as amended by chapter two hundred and sixty-seven of laws of eighteen hundred and seventy-six, is further hereby amended by adding thereto the following sections :

SEC. 7. The said State Commissioners in Lunacy shall from time to time visit all persons confined as insane in all places over which they are given jurisdiction by this act, and inspect such houses or places of confinement and the mode of treatment of the insane, and they are required to make visitations and inspections at least once in six months by at least one member of the said State Board of Commissioners of Lunacy, and annually by a majority of said commissioners. Each inmate shall be also privately and separately examined by one member of said State Commissioners in Lunacy, at least once in every six months. And the said State Board of Commissioners in Lunacy shall make rules to insure to

the patients the admission of all proper visitors, being members of their family or personal friends, agents or attorneys, and compel obedience to such regulations. The detention of any person as insane in any house or place made subject to the provisions of this act, without compliance with the requisitions of this act, shall be a misdemeanor on the part of any person concerned in such detention, who has omitted or permitted the omission of any of the requirements, and the party aggrieved shall also be entitled to his action for damages. No verdict or judgment shall be entered in any action, nor shall any judgment be entered on any indictment for such detention as against any person or persons who are subject to the regulations and provisions of this act, who shall have complied with the requirements of this act, unless the judge after trial and verdict shall certify that there was proof to his satisfaction that the party charged acted with gross negligence, or corruptly, or that he acted without reasonable or probable cause, or was actuated by motives other than the good of the person restrained.

SEC. 8. The person or persons at whose instance the person is detained shall, by a writing signed, state that the person has been removed, and is to be detained at his or her request under the belief that such detention is necessary and for the benefit of the insane person, and this shall be verified by oath or affirmation. There shall also be delivered to the person or persons having supervision or charge of the house, a written statement of the following facts, relative to the person to be restrained, signed by the person or persons at whose instance the insane person has been removed and detained, or if the facts be not known, it shall be so stated and the statements verified by oath or affirmation.

1. The name.
2. Age.
3. Residence for the past year or for so much thereof as is known.
4. Occupation, trade or employment.
5. Parents, if living.
6. Husband or wife.
7. Children.
8. Brothers and sisters and the residence of each of these persons.
9. If not more than one of these classes is known, the names and residences of such of the next degree of relatives as are known.
10. A statement of the time since which the insanity has been supposed to exist, and the circumstances that induce the belief that insanity exists.
11. Name and address of all medical attendants of the patient during the past two years. Within twenty-four hours after any person is received into any house for detention as an insane person, the person in charge there shall enter or have entered in a book kept for that purpose, all the facts stated in the certificate or documents required to be exhibited at the time of receiving the patient, and shall file the originals and preserve them. The regular medical attendant of the house shall, within twenty-four hours after the reception of any patient, examine such patient, and reduce to writing the results of such examination and enter the same upon a book to be kept for that purpose, together with the opinion formed from such examination and from the documents received with the patient. In case the said medical attendant is of the opinion that a detention is not necessary

for the benefit of the patient, he shall notify the person or persons at whose instance the patient is detained, and unless such person shall, within a reasonable time, exhibit satisfactory proof of such necessity, the patient shall be discharged from the house and conveyed to the nearest place where a conveyance can be obtained by him. Copies and documents furnished at the time of the reception of the patient (and of the examination of the person by the medical attendant of the house) shall be forwarded by mail to the address of the secretary of the State Board of Commissioners in lunacy, within forty-eight hours of the time of the reception of the patient, which shall by them be entered in a book which they shall keep for that purpose, or properly file the same, and at any time on request of the secretary of the commissioners in lunacy a detailed report shall be made upon such case. The person at whose instance the alleged lunatic is detained shall personally visit the person so confined on his or her order, at least once in each and every six months, unless excused by order of a judge of court of record, on application for good cause shown. Any such person so failing to make such visitation shall be deemed guilty of a misdemeanor, and punished by fine and imprisonment, unless so duly excused by order of a court of record or a judge thereof for good cause shown.

SEC. 9. The trustees, managers and physicians of any hospital in which a criminal is confined by order of any court, or in which a lunatic has been committed after an acquittal of crime, shall not discharge, release or remove the prisoner or lunatic without the order of a court of competent jurisdiction, and in case such lunatic, whether a convict or acquitted, is not set at large, but is to be removed to any



place of custody other than a hospital, the order for removal shall not be made without notice to the State Commissioners of lunacy, and time given them to investigate the case and be heard on the application. All persons that have been detained as insane (other than criminal insane, duly convicted and sentenced by a court) shall as soon as they are restored to reason, and are competent to act for themselves in the opinion of the medical attendant of the house, be forthwith discharged, and any person so detained shall at all times be entitled to a writ of habeas corpus for the determination of this question, and on the hearing the respondent in that writ shall be required to pay the costs and charges of the proceeding, unless the judge shall certify that there was sufficient ground in his opinion to warrant the detention and put the petitioner to his writ; in case the discharged patient be in indigent circumstances, such persons shall be furnished with necessary raiment and with funds sufficient for sustenance and travel to his home, to be charged to the county from which such patient was committed. The State Commissioners in lunacy shall be notified of all discharges within twenty-four hours thereafter, and these shall be entered by the secretary of the committee. Any three members of the State Board of Commissioners in lunacy, or the board of visitors of the proper county, with one or more members of the State Commissioners in lunacy, may at any time order and compel the discharge of any person detained as insane (other than a person committed after trial and conviction for crime or by order of court). But such order shall not be made unless notice be given to the person having charge of the building in which the patient is detained and to the person or persons at whose instance the patient



is detained, and reasonable opportunity given them to justify a further detention, and no member of the board shall sign an order of discharge unless he has personally attended and examined the case of the patient.

SEC. 10. No mechanical restraint shall be used, or seclusion practiced, upon any patient so confined except on the personal order of the superintendent or physician in charge. No such order shall be given except the particular restraint or seclusion is clearly for the good of the patient, or necessary for the safety of others. Each order shall be in writing and specify the kind of restraint, and time of its duration, which shall be recorded, and the number of hours of seclusion practiced in any day on the patient, in a book to be kept for the purpose. It shall be unlawful, and be deemed a misdemeanor in law punishable by a fine of not exceeding five hundred dollars, or imprisonment not exceeding sixty days, or both, in the discretion of the court, for any officer, attendant, servant or other employee of any asylum, hospital, house or place where a lunatic is detained, to strike, beat, kick or willfully maltreat, any patient so detained therein. It shall be the duty of the superintendent of any asylum, hospital, house or place where any lunatic is detained, to instantly discharge any officer, physician, attendant or other employee, who should strike, beat, kick or willfully maltreat any patient confined therein, on satisfactory proof being made of the same.

This act shall take effect within thirty days after the passage of the same, and all acts or parts of acts in conflict with the provisions of this act are hereby repealed.

NOTE by the Chairman of the Committee of the Medico-Legal Society:

The Bill published in this number is Assembly Bill No. 636 of last session, and is the Bill complete, as reported by the Select Committee of the Medico-Legal Society to whom was referred the Report of the Permanent Commission, the Report and Bill submitted by the Pennsylvania Commissioners to Governor Hoyt, and the Report and Bill reported to the Senate of the State of New York by the State Commission in Lunacy and the Attorney-General. This bill was reported favorably by the Judiciary Committee of the Assembly. Referred to the committee of the whole, but too late in the session to be reached on the call.

§ 1 of the Bill is the section proposed by the State Commission in Lunacy and the Attorney-General, with two changes made by the committee of the society. 1. By striking out the clause "And no person shall be held in confinement in any such asylum for more than five days, unless within that time," which was left in the Bill submitted, and by adding "a justice of the peace" as one of the officials outside of cities who could grant an order of commitment.

§ 2 of the Bill is the section as reported by the State Commissioner and Attorney-General, with the following changes made by the Committee of the Society:

1. "Three" changed to "five" years time of a physician's service to qualify him to act as Examiner.

2. The words "Board of" inserted before "State Commissioners in Lunacy."

3. By adding to the section proposed by State Commissioner and Attorney-General, the following:

"The said certificate among other things shall state that each of said physicians has separately examined the person alleged to be insane, and, that after such examination he doth verily believe that the person is insane, and that the disease is of a character requiring that the person be placed in a hospital or asylum for treatment, and that neither of said physicians has consulted with the other physician concerning the case. The said certificate shall also contain a statement by each physician of the facts and manifestations that he has observed, distinguished from the facts and circumstances which have been communicated to him by others, which shall be separately stated and certified, giving names and addresses of those from whom said facts have been ascertained."

§ 3 is the section 3 as reported by the State Commissioner and Attorney-General, with the addition of the following clause: "Or when he is in anywise related, by blood or marriage, to the person alleged to be insane, or to any member of his or her family."

§ 4 of the Bill is identical with the section so reported to the Senate, with the addition by the Society's committee of the last clause: "The said books

shall be open to the inspection of any member of the said Board of State Commissioners in Lunacy, or the Board of Visitors of the proper county."

§ 5, 6, 7, 8, 9, as reported by the State Commissioner in Lunacy and Attorney-General, were adopted by the Committee of the Society without change.

§ 10 was drawn by Dr. Stephen Smith, State Commissioner in Lunacy, but was not reported by him to the Senate. He furnished it to our committee, who approved of it with verbal changes, and inserted it in the Bill reported by the Committee of the Society.

§ 10 amending title one by adding § 40.

The Committee of the Society could not approve of the section as submitted by the State Commissioner and Attorney-General, and framed the section (40) to meet the views of the Committee of the Society.

§ 41 and § 42 of title one were reported by the State Commissioner and Attorney-General, and approved substantially as reported by the Committee of the Society.

§ 43 of same title is a section reported by the State Commissioner and Attorney-General, with a verbal alteration made by the Committee of the Society.

The remaining sections of the Bill were framed by the Committee of the Society, and no part of them are embraced in the report made by the State Commissioner in Lunacy and Attorney-General. They were designed to unite the leading views of the report of the Permanent Commission, much of the report of the Pennsylvania Commissioners, and to engraft conceded advantages upon the existing statutes.

The Legislature was then in session, several bills were before it affecting the lunacy laws, and by co-operation so far as possible with the State Commissioner and Attorney-General, it was hoped favorable action could be had on the whole subject at the then present session. The alterations made by the Committee of the Society to the bill submitted by the State Commissioner in Lunacy and Attorney-General are enclosed in brackets—[ ].

The Committee if instructed to have drawn a complete bill might not have included several of the provisions reported by the State Commissioner in Lunacy and Attorney-General.

# WHAT IS EXPERT TESTIMONY ?

## AND WHO ARE EXPERTS ?

BY O. W. WIGHT, A. M., M. D., \*

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As among those to whom I read are lawyers who are not doctors, and doctors who are not lawyers, it will be necessary to treat certain questions here discussed in an elementary manner. In a mixed association of two professions, each must exercise a certain forbearance for the sake of the other. Were all both doctors and lawyers, technical terms might be adopted and the discussion abbreviated.

An answer to the question, *What is expert testimony ?* will make brief and easy an answer to the correlated question, *Who are experts ?*

I would gladly adopt the exact and exacting method of elimination, but it would take us a long voyage out on the ocean of the law of evidence, and we might discover only a waste space of the sea, agitated by the winds of discussion and made dangerous by the waves of controversy. It would be much safer to proceed by the method of definition, following respectable precedents, avoiding disputed territory and adopting accepted maxims ; but in that case nothing new would be gained, and as I could not expect to do better what has been well done before, it would be loss of time and patience for us all. As I have matter to offer that is not in

\* A Paper read before the New York Medico-Legal Society, on the evening of Dec. 6, 1882.

harmony with the traditions of the common law, nor with the usages of the English and American courts, I shall adopt a "critic of pure reason," arraigning certain venerable legal rules, questioning their right to maintain their present rank, or even to exist at all. The purest abstraction, when true, is the most revolutionary of things. "Let the world beware," says Mr. Emerson, "when God lets loose a thinker on this planet." Upon our hard inductions from undisputed facts, or our cold deductions from established principles, the progress of science, the administration of justice, the well-being, the liberty, the lives of men, may sooner or later depend.

From a New York daily journal, I cut the following:

"The recent experience of an English lady of rank, who wished to sell some jewels, goes to prove that shams are not newer than other things under the sun. Regarding what we supposed to be splendid rubies, the jeweler said: 'They are certainly very showy, madam, but unfortunately, only clever imitations in glass!' The lady, much chagrined, then called attention to the heavy setting, to which the jeweler replied, after the usual test, 'The setting is only gilt!' Another article produced for appraisement was a superb bracelet, the gift of a continental sovereign to the wife of a distinguished diplomatist. The skillful manufacture and specific gravity of this splendid object had been extolled for generations in the family of the possessor, and so highly was it prized that it was invariably sent to the bankers whenever the family went out of town. The jeweler scrutinized it carefully, and pronounced it to be extremely heavy; 'but,' he added, 'if you will allow me, madam, to raise this very thin plate, I shall be able to show you that the bracelet is filled up with—lead!' Yet it is quite possible that the original purchasers of these articles believed them to be genuine, and paid for them as such."

Whether this interesting narrative is really history or fic-



tion, makes no difference with its value for the purpose of illustration. It is easy to imagine cases in court arising from the transactions thus recounted. In each case there would be evolved by the pleadings an issue of fact. In order to enable an Anglo-Saxon jury to determine the issue of fact, the testimony of the skilled jeweler would not only be relevant, but even essential. Ordinarily, neither the judge nor the jury, aided by all the knowledge of the possessors and donors of the jewels, could determine the issue, without the testimony of the expert. The expert alone knows or can know the fact in issue, to wit, the genuineness or spuriousness of the jewels, or supposed jewels.

The books—Stephen, Best, Greenleaf, and all the rest, construe such knowledge of the expert, delivered under oath, as opinion, and make it relevant as an exception under the general rule of the irrelevancy of opinion. They properly term it expert testimony, while in a traditional sort of way, leaving its real significance untouched.

But, before probing the heart of the question thus merely broached, allow me to widen the field by other illustrations from leading adjudicated cases.

Seamen are frequently called to aid courts with their special knowledge in admiralty cases. (*Lane vs. Wilcox*, 55 Barb., 52; *Wallon vs. Nesbit*, 1 C. and P., 70; *Fenwick vs. Bell*, 1 C. and K., 312; *Thornton vs. Royal Co.*, Peck, 25.)

An engraver of seals may know much more than courts about the genuineness of an impression. (*Folkes vs. Chadd*, 3 Dougl., 157.)

An experienced post-office clerk knows more than courts about postmarks. (*Abby vs. Hill*, 5 Bing., 299.)

An artist, or trained art critic, may know better than judge



or jury whether a painting is a copy or an original. (*Folkes vs. Chad*, 3 Dougl., 157.)

Surveyors may have special knowledge about boundary marks. (*Davis vs. Mason*, 4 Pick., 156.)

Practical chemists may determine what specific poisons are found in the bodies of persons supposed to be the victims of homicide or suicide, and impart their knowledge to courts. (*R. vs. Palmer*, printed trial, p. 124, et seq.)

Surgeons may know whether death has resulted from certain wounds or not. (See the books on evidence.)

A skilled microscopist may determine whether a certain stain is from blood, and, proximately, from the blood of what animal, and therefore, be able to throw great, and perhaps decisive, light on a case otherwise obscure. (*Wharton & Stillé, Med. Juris.*, B. 5, § 724-752.)

One devoted to the study of handwriting, especially with the aid of the microscope and of the photographing process, may readily discover and point out to court and jury differences or resemblances that would entirely escape ordinary observers. (*Lyon vs. Lyman*, 9 Conn, 55; *Moody vs. Rowell*, 17 Pick., 490; *Hammond's case*, 2 Greenl., 33; *Whittaker's case*.)

Owing to light thrown upon the dark and difficult subject of mental disease, and capacity under mental disease, by the investigations of alienists, the so-called legal principle established in the will case of *Stewart vs. Lispenard* (26 Wend. 255), was reversed by the far more enlightened principle in the Parish will case. (*DeLafield vs. Parish*, 25 N. Y., 10.)

The eight medical experts who testified in *McNaughten's* case, that the defendant committed the act under the influence of an insane delusion which deprived him of the power of self-

control, enlightened Chief Justice Tyndall a good deal more as to the responsibility of the accused than all the decisions of the English Courts from Sir Matthew Hale down to that time. When, in *Queen vs. Pate*, Dr. Monro, corroborating Dr. Conolly, testified: "It frequently happens with persons of diseased mind that they will perversely do what they know to be wrong," he had a much clearer view of the matter than Mr. Baron Alderson, who instructed the jury that knowledge of right and wrong is the test of responsibility. In *Queen vs. Townley*, Dr. Winslow testified: "I do not believe that he (the defendant) was in a condition of mind to estimate, like a sane man, the nature of his act and his legal liability," at the same time declaring that he "knew he had done wrong." Dr. Winslow had much ampler knowledge of the defendant's condition and responsibility than Mr. Baron Martin, who instructed the jury in the traditional way. In *People vs. Huntington*, in *Freeman vs. People*, in *Com. vs. Rogers*, American Courts practically refused to be enlightened by the knowledge of living alienists, and applied the test furnished by the feeble science of a century ago, translated into an assumed principle of law.

From these illustrations emerges the conclusion, that expert testimony, just so far forth as it contains the special knowledge of the witness and is pertinent to the issue, is relevant, material, and may be essential to the ends of justice; but, just so far as it is opinion, personal view, or theory, it is irrelevant, immaterial, and may be mischievous. Opinionated men arouse antagonism. Opinionated expert testimony is repugnant to justice, contrary to law, and alike intolerable to exact science and true art. Witnesses who are not experts are allowed, within proper limits, to give general conclusions,

which, with some latitude of expression, are called opinions, in order to sum up groups of separately indefinable facts within their knowledge. The same latitude, and for the same purpose, might reasonably be allowed to experts. But even such general conclusions are relevant only just so far forth as they are the generalized expressions of grouped facts and exact knowledge.

Such a restricted definition of expert testimony, which is in harmony with the clear intent and aim of the law of evidence, would eliminate much of the nonsense to which we are sometimes painfully constrained to listen in courts.

It follows, of necessity, that an expert witness is one who has special knowledge of the kind here indicated, to impart under oath for the enlightenment of court and jury. Quack experts are the bane of trials and their testimony poisons justice. It has been well said, that one who thinks he knows, but don't know, is a genuine dunce, against whom the very gods contend in vain. His presence everywhere is a calamity; his presence on the witness stand, as an expert, is a judicial misdemeanor. I use the word advisedly, for, as Sir James Fitzjames Stephen says, it is a rule of evidence that "it is the duty of the judge to decide, subject to the opinion of the court above, whether the skill of any person in the matter on which evidence of his opinion is offered is sufficient to entitle him to be considered as an expert." The clearest of writers on the law of evidence should have used the word knowledge, in connection with the word skill. On the same page, he had written, "the words 'science or art' include all subjects on which a course of special study or experience is necessary to the formation of an opinion." Skill is applicable to "art;" knowledge to "science." (*Digest of the Law of Evidence*, p. 104).

When, therefore, a judge admits a quack expert to testify in his court, for his own enlightenment and the enlightenment of his jury, in the special knowledge and skill of some branch of "science or art," he makes himself responsible for the public scandal. The habit of allowing parties in litigation to select experts beforehand for their ascertained favorable opinions, and to bring them into court as partisan witnesses, is a desecration of the temple of justice. For that reason, we are frequently entertained with the sad spectacle of two sets of experts giving solemn testimony in direct contradiction to each other. Cranks at large thus find their way to the witness-stand, to testify concerning cranks in custody. As Judge Redfield justly says (*On Wills*, ch. III, § 13,) "if the state, or the courts do not esteem the matter of sufficient importance to justify the appointment of public officers, \* \* \* it is certain the parties must employ their own agents to do it; and it is perhaps almost equally certain, that if it be done in this mode it will produce two trained bands of witnesses, in battle array against each other, since neither party is bound to produce, or will be likely to produce, those of their witnesses who will not confirm their views."

Still more severe is Judge Woodruff, (*Gay vs. Mut. Ins. Co.*, 2 *Bigelow's Ins. Rep.*, 14,) who says: "Testimony of experts \* \* \* where the speculative and theoretical character of the testimony is illustrated by opinions of experts on both sides of the question, is justly the subject of remark and has been often condemned by judges as of slight value. And like observations apply to a greater or less degree to the opinion of witnesses who are employed for a purpose and paid for their services; who are brought to testify as witnesses for their employers." The testimony of so-called expert witnesses

employed in suits against corporations, especially railroad corporations, is often scandalously unjust, and sometimes of the very essence of perjury.

Judges forget that, in animadverting upon the character of expert witnesses admitted to testify in their courts, they are criticising their own negligence.

The greatest trouble is with the medical experts. The chief cause is that in this country we have no legitimate medical profession. Learned, able, conscientious physicians and surgeons we have, but they are a melancholy minority in the great froth ocean of practitioners. In the United States there are nearly a hundred medical colleges, a majority of which are only chartered doctor factories. To them flock every year green young men, many of whom could not write a sentence of correct English, if the salvation of their souls depend on the effort; who obtain certificates of study from easy-going practitioners, listen to miscellaneous lectures for twice fourteen weeks, and are graduated as doctors. The schools compete with one another for students by the ease with which they induct them into a learned profession. Everywhere is the radically wrong system of allowing medical faculties to license their own students to practice. And this is not the worst of it. In most States, an enterprising fellow who fails as a minister, lecturer on phrenology, school-master, or tin-peddler, is allowed to put out his "shingle" as a doctor, and he is pretty sure to get fools to employ him, for he has cheek, brass, push, pretension, and the audacity of ignorance. From such a heterogeneous crowd, *gens ferox et pasta chimveris*, proving by its very existence the doctrine of spontaneous genesis, parties in litigation find experts to testify to anything they desire. No wonder Judge Davis, of Maine, said with great bitterness,



in Neal's case: "If there is any kind of testimony that is not only of no value, but even worse than that, it is, in my judgment, that of medical experts."

In order to complete the picture, imagine an "all-sufficient, self-sufficient, in-sufficient" member of the bar, who "crams" for the occasion from some antiquated treatise, till he is as luminous with medical learning as John Randolph's "rotten mackerel by moonlight;" who cross-examines the quack medical expert with the double purpose of breaking down the witness and displaying his own prodigious erudition. Observe them face to face in the temple of justice, while "his honor" preserves order with dignified disgust, while the ruminating jury listen with bewilderment, while a sprinkling of sensible men among the amused spectators look on with silent amazement.

Yet I am hopeful of the future. This, like all other evils, has a tendency to cure itself. In every centre of population there are medical men who are qualified to become useful experts. Let judges exercise their customary prudence, good sense, and sound judgment, in selecting physicians and surgeons, to aid them with special knowledge conscientiously acquired by study and experience, and they will have reason to change their opinion of the value of this kind of testimony. The expert should be called-in by the court, be under the considerate protection of the court, and should be compensated adequately by the public, as other officers of the court are compensated. In no case should the interested parties to a suit be allowed to employ experts, and in turn experts should be prohibited, under severe penalties, from receiving any fees from litigants. In my judgment, it would be well for medical societies, organized on a sound basis, to designate those who



are especially learned and skilled in particular departments of medicine and surgery, as proper experts in those departments, and from time to time to furnish a list of such to courts in their locality. Laws that may be needed to carry out a plan of this kind ought to be speedily enacted.

The most difficult field for medical experts is that of mental disease. A transition is rapidly going on in the study of insanity, but the end is not yet. There is no subject on which courts need more enlightenment; none on which trustworthy enlightenment is more difficult to be found. The first step to be taken by the judge and the bar, is to learn to doubt the wisdom of the Common Law, in its rigid disposal of the question of the responsibility of the insane, by following precedent and by the application of an assumed rule of law. "Canst thou minister to a mind diseased?" No; not by citations from Littleton, Coke, Blackstone, Sir Matthew Hale, Lord Mansfield, Lord Erskine, Lord Denman, Chief Justice Tyn-dall, the fifteen judges from whom the House of Lords sought legal wisdom, and all the rest. Less than two decades ago, the Lord Chancellor of England summed up the unwisdom of the Common Law upon this awful question, by declaring, in good faith, that "the introduction of medical opinions and medical theories into this subject has proceeded upon the vicious principle of considering insanity as a disease." (*Hansard, clxv.*, § 1297).

The history of the insane man in the Common Law Courts is curious and instructive. We can only glance at it here.

There are three periods, each receiving its distinctive character from contemporary popular belief, and antecedent medical science.

In the first period, the insane man was not allowed to plead

his insanity at all before the courts. He was possessed of the devil, as a mysterious punishment for some dark deed, and had no rights which the courts or humanity were bound to respect. Littleton advanced the legal doctrine that a man shall not be heard to stultify himself. As Lord Mansfield expressed it historically, in 1767, "It hath been said to be a maxim that no man can plead his being a lunatic to avoid a deed executed, or excuse an act done at that time, because it is said, if he was a lunatic he could not remember any action he did during the period of his insanity." Thus, on a legal quibble, as Lord Mansfield justly calls it, was the plea of the poor lunatic set aside. "By the law of England," Lord Hale had said, "no man shall avoid his own act by reason of these defects." (1 *Hale, P. C.*, 29, *Co. Lit.*, 246, b.)

The second period was slowly ushered in, under pressure of advancing civilization and developing medical science. Lord Mansfield was glad to find that the former doctrine "hath of late been generally exploded." Under another quibble of the law, the lunatic was allowed to plead. "Though he could not remember," said Lord Mansfield (*Chamberlain of London vs. Evans*), "what passed during his insanity, yet he might justly say, if he ever did such an action, it must have been during his confinement of lunacy; for he did not do it before or since that time." Even this advancement, as Judge Story remarks, (*Eq.*, § 225), "met with a sturdy opposition from the common lawyers." During the second period, the pitiable lunatic reaped no benefit from his plea, unless it was shown in his behalf that he was utterly bereft of reason, that he was in the condition of a wild beast. Such was the medical teaching of the time, and the Common Law followed after it slowly and protestingly. The wild beast test prevailed

till the dawn of the nineteenth century. Erskine said, in 1800, in Hadfield's case, "The Attorney-General, standing undoubtedly upon the most revered authorities of the law, has laid it down, that to protect a man from criminal responsibility, there must be a total deprivation of reason and understanding." (*Rex vs. Hadfield*, 27 *St., Tr.* 1288.)

With this very case dawned the third period, which has lasted to our times, during which knowledge of right and wrong has been the test of responsibility. Eight years previous, in 1792, Pinel, pursuing the path humanely opened by Dr. Benjamin Franklin, "liberated fifty-three of the patients confined in the Bicêtre from the chains by which it was thought necessary to restrain their fury." (*Bucknill and Tuke*). The success of Pinel's experiment was great, and touched withal the heart of England. Erskine knew of it and was already breathing a softer atmosphere around him in consequence. Lord Kenyon, in acquitting Hadfield, was paying an unconscious tribute to Pinel. It was not the deductive legal metaphysics of Erskine, nor his inductive legal logic, but his seductive forensic eloquence that touched the heart and bewildered the understanding of the high priest in the Common Law temple.

The law took its revenge for yielding to an impulse of humanity and straightway invested the new test with the sacred and inviolable character of a legal maxim. Juries may decide issues of fact, but the question of responsibility in the insane must be decided by judges as matter of law. Knowledge of right and wrong, a test furnished by the science of a century ago, is clung to by bench and bar to-day as tenaciously as the common lawyers clung to the old theory that an insane man cannot plead at all in the time before Lord Mansfield,

or as courts held to the wild beast theory in the earlier days of Erskine.

Hippocrates, the first medical observer of insanity, said, more than two thousand years ago: "By the same organ (the brain) we become mad and delirious, and fears and terrors assail us, and dreams and untimely wanderings, and ignorance of present circumstances. All these things we endure from the brain when it is not healthy." The Lord Chancellor's "vicious principle of considering insanity as a disease" was older than he knew. Hippocrates, if introduced as an expert witness, during all these intervening centuries, would have been ridiculed by any court on earth as a visionary theorist. Pathological study of insanity, fruitfully pursued since the middle of the nineteenth century, begins exactly where the great Hippocrates left off. The knowledge test, ambitiously and falsely exalted into a principle of law, will not much longer withstand the new science. One court, in an enlightened State of our country, has already given as vigorous a blow to the current theory as Lord Kenyon, or rather Lord Erskine through Lord Kenyon, gave to the wild beast theory. (*State vs. Pike*, 49 *N. H.*, 399). "The legal profession," says Mr. Justice Doe, "in profound ignorance of mental disease, have assailed the superintendents of asylums, who knew all that was known on the subject, and to whom the world owes an incalculable debt, as visionary theorists and sentimental philosophers attempting to overturn settled principles of law; whereas, in fact, the legal profession were invading the province of medicine, and attempting to install old and exploded medical theories in the place of facts established in the progress of scientific knowledge. The invading party will escape from a false position

when it withdraws into its own territory ; and the administration of justice will avoid discredit when the controversy is thus brought to an end." "If our precedents practically established old medical theories which science has rejected, and absolutely rejected those which science has established, they might at least claim the merit of formal consistency. But the precedents require the jury to be instructed in the new medical theories by experts, and in the old medical theories by the judge." "It is the common practice for experts, under the oath of a witness, to inform the jury in substance, that knowledge is not the test, and for the judge, not under the oath of a witness, to inform the jury that knowledge is the test. And the situation is still more impressive when the judge is forced by an impulse of humanity, as he often is, to substantially advise the jury to acquit the accused on the testimony of the experts, in violation of the test asserted by himself. The predicament is one that cannot be prolonged after it is realized. If the tests of insanity are matters of law, the practice of allowing experts to testify what they are, should be discontinued ; if they are matters of fact, the judge should no longer testify without being sworn as a witness and showing himself qualified to testify as an expert."

A new period is dawning, ushered in by the light of the new science. Already alienists are holding clinics of sick brains, as other specialists are holding clinics of diseased eyes, lungs, livers and kidneys. All of this may be very disgusting to my Lord Chancellor, but he can console himself with the reflection that Hippocrates is likely to survive him by a good many centuries.

In the new period no small rule of medical science or of



assumed law will be used to measure the wide realm of mental aberration. An abiding principle of law, that the product of mental disease is not, cannot be, a will, a contract, or a crime, will always be applied. But, when a plea of insanity is interposed, the case will be decided according to the testimony, expert and non-expert, as a matter of fact. The difficulties to be encountered in such cases are immense. The human mind is not easily fathomed, either in its normal or abnormal state. The greatest intellects of the world, Plato and Aristotle, Leibnitz and Descartes, Kant and Hegel, Locke and Sir Wm. Hamilton, have labored in vain to make a satisfactory philosophy of mind. The achievements of mankind, in science and art, in commerce and statesmanship, in literature and industrial works, are beyond ordinary comprehension. If, then, we cannot measure the products of the human brain in its healthy action, how shall we apply a petty test of legal fiction to the shoreless chaos of its evolutions in disease. Even the physiology of the brain is far from being completed. Its pathology is still in its infancy.

Real experts, those who have some actual knowledge of the matter, judges and juries, must meet the tough problem as well as they can. Uniformity of views, uniformity of decisions, is not to be expected. The only thing that society will insist upon is that its right to protection shall in every case be respected. When the man charged with crime is adjudged, upon the evidence, to be insane, his irresponsibility must not entitle him to be set free. A real lunatic may be more dangerous than a sane criminal. A judgment of insanity must consign him to confinement for at least as long a period as he would have been imprisoned, if he had



made no plea of mental disease, and had been found guilty ; and as much longer as skilled and properly appointed alienists shall deem necessary. With such prudent restriction for the public safety, we shall have very few fictitious pleas of insanity.

In this entangled field, no man should be considered an expert, simply because he is a doctor. Even superintendents of asylums, especially those of long experience, labor under one difficulty, and need a word of caution : they are so accustomed to mental disease that they lose a fine sense of mental health, and thus may lack a full appreciation and presence in mind of the normal condition, to which, in the exercise of sound judgment, a new and complicated case of aberration must be referred for comparison. An astute lawyer may embarrass them, or even confound them, by asking for a definition of sanity.

It is not necessary to consider certain anomalous recent cases, in which the slayers of libertines have been excused by a fiction of transitory emotional insanity. It would have been more honest, and consequently honorable, to acquit them upon the more valid ground, that a man has a legal right to abate, without process, a nuisance from which he especially suffers. (*Manhattan Manufacturing and Fertilizing Co. vs. Van Keuren*, 8 C. E. Green, (N. J.), 255 ; *Amoskeag Co. vs. Goodale*, 46 N. H., 56 ; *Com. Dig.*, "Action on the case." D. 4 ; *Greenslade vs. Halliday*, 6 Bing., 379 ; *Gates vs. Blincoe*, 2 Dana, 158.) And thereupon we have the edifying spectacle of learned attempts to combat the new heresy of the law by the law's ancient ignorance, or, by legerdemain of logic, to reconcile both to reason, and, correlatively, to each other.

There is an essential difference between expert and non-expert witnesses before the courts. Any one, no matter what his profession or occupation may be, must attend and testify to facts within his knowledge. There is a uniform fee for all such witnesses. Whether an expert can be compelled to attend and aid the court with his special knowledge, without other compensation than the ordinary witness fee, is another question. In England, the decisions are in favor of special compensation. In this country, the decisions are conflicting but the better opinion seems to be that an expert must be especially compensated by the party seeking his services, before he can be compelled to testify. (*Webb vs. Page*, 1 *Car. and Kir.*, 23; *People vs. Montgomery*, 13 *Abb. Pr., N. S.*, 207; *In re Roelker*, 1 *Sprague*, 276; *Buckman vs. The State*, *The Reporter*, April 10, 1878, p. 429; *per contra*, *Ex parte Dement*, *The Reporter*, January 30, 1878.) In Buckman's case, the Supreme Court of Indiana admirably say: "The position of a medical witness testifying as an expert is much more like that of a lawyer than that of an ordinary witness testifying to facts. The purpose of his service is not to prove facts in the cause, but to aid the court or jury in arriving at a proper conclusion from facts otherwise proved." The court also say, in the same case: "The property which an attorney or physician may have in his professional knowledge, if it is to be regarded in the light of property may not be of a tangible corporeal character; it may be neither goods nor chattels, lands or tenements; but it may nevertheless be property. A party who has a copy-right in a book has a property which consists, not in the right to the book merely, but in the exclusive right of multiplying copies thereof." (*Cooley's Black.*, 405; *Curtis on Copy-right*, 13; *Copinger's*

*Law of Copy-right*, 1, note a.) As it is provided in the Fourteenth Amendment to the Federal Constitution, that no State shall "deprive any person of life, liberty, or property, without due process of law," and as many State Constitutions provide that particular services shall be justly compensated, it would seem that the rights of experts are pretty well guarded in American law. Other States would do well to follow the example of Iowa, where the courts are authorized to fix the compensation of experts. (*Snyder vs. Iowa City*, 40 *Iowa*, 646.)

Thus I have traversed a wide field, avoiding details as much as possible, and confining myself to general principles. A portion of the subject is confessedly the most difficult in law and medicine. The humaner law of responsibility in mental disease—the leading feature of this discussion—will, doubtless, find acceptance only after conflict. In fact, all laws, from the dawn of civilization, have received recognition and maintained their existence only through struggle. As Von Ihering says, (*The Struggle for Law*, *Lalor's translation*, p. 130), "Struggle is the eternal labor of the law. The sentence: 'In the sweat of thy brow shalt thou eat bread,' is on a level with this other: 'By struggling shalt thou obtain thy rights.' From the moment that the law gives up its readiness to fight, it gives itself up; for the saying of the poet, that only he deserves liberty and life who has to conquer them for himself every day, is true of law also."

# A PLEA FOR LUNACY REFORM.

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As the public interest is aroused by several cases recently brought before its notice, and as the protection of the individual rights of citizens, when alleged to be insane, is a matter of personal interest to every man and woman in the country, it seems an appropriate time for a few practical suggestions, the outcome of personal study and experience in this field. Without expressing in these columns any opinion relative to the merits of individual cases, we desire to make such cases our text in our plea for lunacy reform. We propose, briefly and concisely, to point out the defects in our laws, and suggest some needed improvements. Our laws respecting lunacy require great changes. We have to-day a false principle that personal liberty is of little consequence, and that if a man or woman is insane, it is, of itself, a sufficient reason for confining them in a lunatic asylum. These false principles are implied in the statutes, and are acted on and mislead even judges. The proper object of insane asylums is to restrain and protect, and, if possible, to cure, the insane who would be dangerous to themselves or others, and to cure and improve the condition of others

\*Read before the New York Medico-Legal Society, Jan. 24, 1883.

insane, who, from any circumstances, cannot be so well taken care of in their own houses or elsewhere outside of a lunatic asylum. We have to-day, as Americans, a great deal of brain fatigue among professional and business men, resulting from a preponderance of waste over repair, which induces grave nervous prostration. Such persons complain of a loss of physical and mental power, and of an inability to do what they could when well; and these same persons exhibit exaggerated sensibility, being very easily affected by trivial impressions. Such persons suffer much from vertigo and confusion of mind, owing to an impaired nutrition of the brain and spinal cord, and a diminution of vascular tonus. They complain of general malaise, impaired nutrition and assimilation; muscular atonicity changes the facial expression; neuralgia is present; there is mental depression and sleeplessness which, all combined, induce a rapid state of prostration and incipient mental disorder. Should the psychical symptoms of irritability, distrust, and confusion of mind be used as an excuse for, and can such a condition be most effectively combated by, sending such a delicate, sensitive, nervous invalid to an insane asylum? We think not. Suppose a person on this borderland of insanity to have stepped over the debatable line; suppose this grave nervous prostration and incipient mental trouble to have lapsed into actual insanity. Such a person will often present such a history as the following, and this is especially the case when the mental disorder appears in early life: the history of such persons will be that during childhood they have been excessively nervous, and have, perhaps, had convulsions in infancy. They have been very emotional children, suffering from night terrors. They have had periods of marked mental inactivity,



alternating with a hyper-activity of the mental functions, and have not taken or manifested a normal healthy interest in their surroundings. If hysterical girls, they may have neither eaten or slept for several days at a time, and they may have manifested periodically, psychic disorders which were more than a natural exaggeration of the nervous excitability which might be naturally expected. Although this is a true periodic insanity in many cases, an acute psychosis with the intellectual centres involved—a form of periodic insanity which may be found at any epoch of sexual life, with marked physical and mental prostration in the intervals between the paroxysms, we believe that most deplorable results occur when such cases are confined in insane asylums, and that incurable insanity may be the result of such a course on the part of relatives. Perhaps such an attack of mental disorder is the result of brain tissue degeneration, separated, it may be, by a long interval of time from the too premature and intense stimulation of the brain by excessive and ill-directed brain work in our modern schools, by which premature and stimulating processes of education there has been forced an elaboration of cerebral structure, hastening the functional activity of the brain, with no due regard to the law of evolutionary precedence, and by which the whole equilibrium of the brain has been upset. The balance of mind has been disturbed by seriously interfering with the natural sequence of the evolution of the brain centres, and we do not think, in such a case, that balance will be restored in an insane asylum, or that there exists the slightest necessity of sending such cases there. On the contrary, home treatment, or skillful treatment elsewhere, will be far more likely to regulate the emotional elements, and restore a well-balanced development of the nervous system and physique.

Dr. Henry Maudsley says, referring to the condition of the numerous chancery patients in England who are living in private houses: "I have the best authority for saying that their condition is eminently satisfactory, and such as it is impossible it could be in the best asylum." Dr. Bucknill, of England, in his recent essay "On the Care of the Insane, etc.," speaks as follows respecting the private care of the insane: "It is not merely the happy change which takes place in confirmed lunatics when they are judiciously removed from the dreary detention of the asylum into domestic life, it is the efficiency of the domestic treatment of lunacy during the *whole course* of the disease which constitutes its greatest value, and of this the author's fullest and latest experience has convinced him that the curative influences of asylums have been vastly overrated, and that those of isolated treatment in domestic care have been greatly undervalued."

From such eminent authority as Dr. Bucknill such an opinion is very significant. We think that efficient curative treatment at a period when it can arrest the onward advance of the cerebral mischief, and maintain reason on her seat, may be applied very often more successfully outside the walls of an asylum than in such institutions, and that it is oftentimes both injudicious and unjustifiable to take measures for the incarceration of quiet, easily managed cases in insane asylums. Of course, in no class of diseases is it so imperatively necessary to secure early and prompt treatment as in the disorders of the brain affecting the mind; but, with a due and thorough appreciation of the physical and mental aspects of the case, early and prompt exhibition of curative means in the incipient stage of mental derangement will be rewarded by success more often outside than in a lunatic

asylum. Every well educated physician knows that the probability of recovery in any given case of mental disease is in proportion to the early age, physical condition, and duration of the attack ; and when any person has youth and a good constitution to aid him, and is advantageously placed, having at command remedial measures, and is excluded from all irritating circumstances, such a person ought to make a speedy recovery. If the person has great impairment of mind, accompanied with delusions of an exalted character, and associated with paralysis, he is generally incurable, and, of course, it may then be judicious to place such persons in asylums. We have known cases where great excitement has been associated with loss of nervous and vital power ; where the cerebral blood vessels were congested, in which, from a week to a fortnight, patients were entirely cured by prolonged hot baths under proper medical care, sleep and repose being induced, and the mania vanishing like dew before sunshine, when, if sent to an insane asylum, the patient's individual needs being lost sight of amongst the great mass of inmates, serious disease would have crept stealthily on in the brain, serious disorganization would have taken place in its delicate structure, and the patient would have sunk into incurable and hopeless dementia. Even the most serious and distressing attacks of suicidal mania can be radically cured outside of asylums by the use of the proper remedies uninterruptedly and perseveringly given until the nervous system is completely under their influence. Many women are sent yearly to asylums, and remain to swell the list of incurables ; who might have been radically cured at home under wise care, rest, a course of hot baths, and the proper sedatives and tonics. Many cases exhibiting the

symptoms of brain softening, which are hurried off to asylums, will yield to generous diet, good air, gentle exercise, and the persevering administration of the proper remedies, under careful medical care at home, when they would soon sink into dementia in an insane asylum.

The experience of some years with mental diseases qualifies us to say that the confinement in asylums of persons whose minds are somewhat disordered, is altogether too common. It is very common to find aged men and women with some impairment of the mental faculties in an insane asylum, and these, as well as others, who are not dangerous to themselves or others, when they have means, and can be taken better care of either in their own homes or elsewhere, ought, I think, to be left to enjoy as much freedom as their condition permits. When such persons are sent to an insane asylum by proper authority, they have to be admitted, and the real reason for their admittance is often to save those who are dependent upon them from some annoyance, when they would have been more comfortable and have had a better chance of recovery in their own homes. The judge who signs a commitment ought to thoroughly satisfy himself that a person is dangerous to himself or others, and also—a very important point—that his disease is more likely to be cured or relieved by being in the insane asylum than if not sent there. We also consider that the judge should either see every alleged insane man or woman, or that he should require some competent person aside from the physicians who have signed the certificate of insanity, to examine and report in writing, what the patient's condition is. If an alleged insane man or woman demand a jury trial they should have it, and the judge be at liberty to overrule the

jury's decision against liberty and discharge a person whom he thinks ought not to be confined. Hon. S. E. Sewall, of Massachusetts, has thus expressed himself, and his expression is the outcome of wide experience in the investigation of lunacy in Massachusetts. "The mode by which our law sends lunatics to hospitals without a judge, is exceedingly defective. Before anyone is sent to such a place as insane, the question, not merely of his insanity, but whether he ought, under all the circumstances of the case to be confined, ought to be examined by an independent and competent tribunal. Our law, like that of many other States, is lamentably defective on this subject. We allow this solemn question to be decided by the certificates of two physicians (Stat. 1862, ch. 223, § 8), employed, not by the person most interested in the decision, but by another, whose wishes and interests may be adverse to his. In practice, it turns out as might be expected, that if one physician refuses a certificate another is applied to. Really, there is nothing in our law to protect a man or woman, alleged to be insane, from being committed to what may prove life-long imprisonment by the certificate of men, who may be incompetent to judge his case fairly, or bribed to misjudge it. The only remedy for this state of things is, to allow no person to be confined as a lunatic without the judgment of one or more independent and competent persons appointed like judges for the purpose. How such persons should be appointed, how their services should be paid for, and the exact functions they should perform, I shall not attempt to suggest, as I cannot now spare time for the purpose. What is most important, is to convince the Legislature of the wretched character of the present system. The remedies are sure to follow." Hon. S. E. Sewall was a



trustee of the Worcester Lunatic Hospital for ten years.\*

The unwise and unsafe facility with which alleged lunatics are put in confinement is to be deprecated, and we need to guard the liberty of our citizens with more jealous care, and no patient in an insane asylum should be confined so closely that he cannot invoke legal aid for his relief, nor see kindred, counsel, or friend. Under proper conditions the law should guarantee to every inmate of an asylum, free communication with his friends and legal counsel. No theory of the treatment of the insane requires that an inmate of an asylum shall be shut off from seeing anyone, even his nearest relative in some instances, without the consent of the friend who imprisons him. This facility of confinement is liable to gross abuse, and as I am about to suggest, physicians of eminent skill and independence should, in every State in the Union, be appointed by the State, and no person should be adjudged insane sufficiently to be confined in any asylum, unless on the certificate of two of the physicians so designated by the State. Liberty of correspondence of inmates of asylums should be unchecked,† and there should be as little confinement as possible of patients, while they are inmates of an asylum.

There are sensitive and irritable women who would, under the excitement and fright of incarceration in an asylum, often

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\* The reader is referred to the abstract of the new laws of Mass. respecting the care and maintenance of the insane, to be found in the appendix of our "*Manual of Psychological Medicine and allied Nervous Diseases*," which it will be seen remedy many defects in the old law and in general are most excellent and will repay careful examination.

† By this we do not mean that a person while insane should be permitted to write to a circle of acquaintances airing delusions, the expression of which, after recovery, would be most mortifying to an intelligent person. It would be no kindness to send such letters.

become insane, and experience shows that there are cases not insane in any sense to justify restraint at the time they are sent to an asylum, and whose cure could be much more readily effected outside of asylum walls under the care of experienced physicians devoted to the study and treatment of mental disease. Such a Lunacy Commission as I am about to suggest would do much, and its continued operation would be of incalculable benefit, not only to the insane and to the officers of institutions, but to those who are alleged to be insane and whose personal liberty is at stake. \* This should be a permanent Board, not depending for its existence on the will of any politician, and it could then, in every State, exercise a parental care and control, not only of the various insane asylums, but of the individual inmates in each. This Commission, as its more especial duties, would investigate every cause of complaint made by the insane or by their guardians, both in and out of institutions; would hear and determine in every case of questionable commitment; and when in their judgment confinement in hospital is no longer necessary or proper, to procure and compel such other care as may be most suitable in families or other establishments. They would frequently inspect the several institutions in their State, and would act as guardians for the insane. They could also enlighten the public mind with the causes and cure of mental disease, and stimulate in the officers of the various institutions every endeavor to cheer, comfort and improve the mental condition of the insane. The public need to know among other things, that the principal factors in the production of insanity are, dissipation, in its various forms, overwork, meagre fare, lack of ventilation, and neg-

\* This is needed in our own State, in common with all other States in addition to our present excellent State Commissioner in Lunacy.

lect of moral culture. There needs to be disseminated among the masses, more correct views of the true way of living, and the necessity of a more rigid observance by them of the laws of health and nature in order that mental disease may be prevented. Acute cases of insanity should be sent, of course, at once to hospitals for treatment, and we want such laws as will insure the best means being employed for the cure and prevention of this rapidly increasing disease.\*

It would be a much needed reform in our laws relating to insanity if New York and other States likewise, could be divided into four or more districts, and a Physician in Lunacy appointed for each district by the Governor. This Board of Physicians, who should be experts, or specialists in nervous or mental diseases, should constitute a State Lunacy Commission to visit and report as to the condition of lunatic hospitals, and protect the rights of those who are incarcerated in public asylums; and also support the medical officers of asylums when they exhibit skill and wisdom in their management. The public would feel more assured that no evils or abuses could spring up in our asylums, and also that if there is any room for improvement it will be immediately seen by the Commission in Lunacy if it escapes the superintendent's eye. The Lunacy Commission of Great Britain has been of great benefit both to the officers and the patients of the English institutions, and would do the same in our own country, and would dispel the prejudice existing against our asylums and their managers.

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\* As a rule, our hospitals for the insane are well managed, and by able, conscientious men. Much of the popular prejudice against these institutions springs from the unfounded assertions of persons who have been confined in them and who have made but an incomplete recovery to reason. A cured patient is generally a grateful one.

As there is a much needed reform as to a new method of introducing expert testimony in criminal trials where insanity is alleged as a defence, this same Lunacy Commission of Experts might be of great value in examining such cases and giving testimony upon such trials, it having been provided in the statute by which such commission should be established, that the counsel for the prisoner in whose behalf the plea of insanity is proposed to be brought forward, should be compelled to notify such board of such proposed plea. This board of experts should have every facility accorded to them, and should then examine the prisoner's mental state, discuss the question, make their conclusions, and should take written memoranda of such examination. They then should appear in court at the trial, to testify as to the prisoner's sanity, or irresponsibility if they find him insane, and give their written memoranda of the prisoner's examination, and their opinion of the state of the prisoner's intellect and emotions, the nature of the mental disorder and its amount, and whether, and in what degree, the mental disorder has existed at the period when the crime was committed. In submitting a written statement by the experts we secure a calm and impartial statement, which may be supplemented in court afterwards by questions by the judge and counsel. This board of experts should have full power to cause the temporary removal of the prisoner to an asylum, so as to have every opportunity for his examination between the time of his arrest and the trial. If this board of experts decide that the prisoner is insane, the judge and jury at the trial would doubtless accept their verdict as final and the prisoner would then be remanded to an asylum, either for the chronic insane, in incurable cases, there to remain for

life, or in cases of ordinary insanity until a competent superintendent, aided by the Lunacy Commission, pronounced him recovered. This would be a very important reform, as it would place rich and poor alike on the same footing as if they were on trial for their lives, accused of murder. Of course, both prosecution and defence could call in other experts as now, if thought best, but this Lunacy Commission report would be entirely impartial and the public would know it to be so.

All the factors tending to the commission of crime would be attentively weighed and certain penalties would not be inflicted on the unhappy victim of a diseased imagination. Dr. D. Hack Tuke, of England, the eminent physician in mental diseases, wisely says, "Infliction of punishment must depend upon accountability, and accountability upon free-will and free-will upon sanity. What we want to ascertain is, not the mere knowledge of right and wrong, but whether the power to avoid doing wrong was sufficiently intact to involve responsibility. In the first place, I think that the magistrate before whom a criminal case is brought should, if there is any question raised as to the prisoner's insanity, be obliged to order an examination of the prisoner either by two mental experts, or one expert and the gaol surgeon. The obvious advantage here is, that we obtain the best opinion we can secure, immediately after the crime has been committed. These experts should have full power to cause the temporary removal of the accused to an asylum, so as to have every opportunity for his examination, between his committal and his trial at the assizes. If they regard him as insane, they should be employed to sign the certificate now required by the 27 and 28 vict., c. 29, S. Q., when a prisoner



in custody awaiting his trial is removed to an asylum. At the trial, the jury should, as at present, decide whether the accused is in a condition to plead, after hearing the opinion of the experts. If judged unable to plead, the prisoner would be confined in the criminal asylum under the same conditions as now. If considered able to plead, a full written report drawn up by the experts should be given in evidence. If the court wishes for any explanation of the report, the experts should be called into the witness box." The following law as to mental responsibility in Austria, extracted from the criminal code, is very precise, well conceived and most excellent: "If doubts exist whether the accused possesses the use of his reason, or whether he suffers from an affection of the mind by which his accountability may be lost, there must be an inquiry into the state of his intellect and emotions, by means of two physicians, always ordered. These have to make their report of the result of their observations. They have to put together all the facts influencing their judgment of the intellectual and emotional condition of the accused. They must examine them according to their importance, both separately and when taken together, and if they consider that there exists a derangement of the mind, they must determine the nature of the disease, the species, and the amount of it, and must ground their opinion both on the basis of the written acts and their own observation as to the influence the disease may have exercised and yet exercises on the imagination, impulses and acts of the accused, and whether and in what degree, the disturbed state of mind has existed at the period when the crime was committed."

In France, the law recognizes the right of the Judge's in-

struction (or magistrate) to enlighten himself by obtaining the opinion of men engaged in the practice of mental medicine whenever he feels in doubt. The Code of Civil Procedure, part I, book II, chap. XIV, enacts the mode of nominating experts. The salient points are as follows, viz. : When the magistrate perceives, during the examination, that the person accused of a crime does not enjoy the full measure of his intelligence, he suspends his examination and makes an order by virtue of which one, two or three experts are requested to examine the accused. He may also have been induced to take this course in consequence of the action of the friends of the prisoner, for after the crime has been committed, his friends may say, "he was insane, here is the proof." "His medical attendant has seen him and attested in a certificate which we place before you that such is the fact." The experts who make the examination take an oath, and the particulars of the crime and the prisoner's history as elicited by the magistrate are communicated to them if they desire them. They then examine the accused either at his house if he is provisionally at liberty, or at the prison if he is detained there. The visits of the experts are made freely and without witnesses just as often as they see fit. The Governor of the prison conforms to their wishes and caused the prisoner to be specially inspected by the jail wardens if it is desired. The experts have full powers to ensure a thoroughly satisfactory examination in a house or in prison. If the experts are not able to make up their minds, as may happen in cases of feigned insanity, the prisoner may be placed provisionally in an insane asylum that he may be examined there with still more care and under watchful supervision. The experts see him as often as they please,

and, having arrived at a decision, report to the magistrate. If they report that the prisoner is insane, the magistrate probably accepts their verdict as final and issues an order of "non lieu," or no jurisdiction. The prisoner is now regarded as irresponsible and remains in an asylum until the superintendent sees fit to discharge him. The great trouble is that dangerous lunatics are often discharged and commit fresh crimes. If the examination by these experts has been instituted by the friends of the prisoner, and they report him *sane* after the family physician pronounces him *insane*, the magistrate then orders an "*expertise*," that is, other experts are ordered to make a fresh examination. If these experts, who observe the prisoner under the same condition as the former board of experts, decide that the prisoner is insane, the magistrate probably adopts their opinion and the prisoner goes to an asylum. But if the second board of experts appointed by the magistrate also think the prisoner responsible, the prisoner is committed for trial. The President of the Court will allow no other physicians to testify on the trial besides the experts previously ordered to that duty by the magistrate. The counsel for the prisoner only may set forth the views of the family physician, if the latter still maintains the prisoner's insanity. If the President of the Court is in doubt as to the mental responsibility of the prisoner, notwithstanding the opinion of the experts, he expresses it to the jury and has the right to adjourn the trial to the next term, in order to appoint still other experts to examine the prisoner's state of mind. The prisoner is sent back to prison and is at the disposal of the new board of experts until they have made their report. The French practice in general is most excellent. They err, however, in not recog-

nizing reasoning mania or emotional insanity as in general, an incurable form of chronic insanity, associated as it generally is with congenitally feeble moral powers (a true moral imbecility), and in not remanding such cases when adjudged insane, to an asylum for life, as when discharged they will inevitably commit other crimes, as they have often done in England, France and in our own country. What we want is, to ascertain the mental condition of the prisoner, to protect him from punishment if he is insane, to protect society from the injury of admitting insanity as a plea when the act is really criminal, and finally to avoid discharging those who are found "not guilty on the ground of insanity" until they are perfectly restored to health.

MYSTERIOUS DISAPPEARANCES,  
AND  
PRESUMPTIONS OF DEATH,  
IN INSURANCE CASES.

BY WILLIAM G. DAVIES, M. A.,\*

Of the New York Bar.

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Some years ago, or, to be accurate, in March, 1876, I had the honor to read a paper on this topic before the Medico-Legal Society. At that time I considered the subject of frauds upon life insurance companies by means of pretended deaths, and detailed several cases of that character. I propose now, with your permission, to relate some instances of mysterious disappearances, and to examine the rules of law governing such occurrences.

The number of disappearances which can strictly be called mysterious is small. In most of the adjudicated cases, as will be observed, the missing person was last seen or known of in circumstances which would afford a plausible explanation of his fate, but it sometimes happens that a man vanishes from the face of the earth, or at least from all his known associations and surroundings, without affording solid ground for any conjecture, or placing any limitation upon the imagination. Two cases have recently occurred in this city which give special interest to this subject at this time.

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\*Read before the Medico-Legal Society, March 7, 1883.



In one, the missing gentleman left the house of a relative in the upper part of the city, about half-past ten o'clock at night, to go to his own home, a few blocks distant. His failure to arrive there excited inquiry and alarm, and within an hour of the time when last seen, the police were put upon the search. In the other, a gentleman left his office with the expressed intention of taking the afternoon train to Boston on a short business trip, and was met by a friend on his way to the Elevated Road. Both of these gentlemen were married men of mature years, happy in their domestic relations, strongly attached to their wives and children, prosperous in their worldly circumstances, free from any special cause for worry and anxiety, and never suspected of any taint of insanity. Each had but little money in his possession at the time of his disappearance, and each left untouched ample funds entirely under his own control. In both cases friends and family are unable to state or conceive any cause for voluntary absence, and every device to trace them which ardent affection, aided by ample means and professional advice can suggest has been employed, and employed in vain. The police departments of various cities, aided by private detectives and the utmost possible publicity, have been engaged in the search, every trace or clue which could be discovered has been followed up, utterly without result. Their disappearance is to-day as complete and apparently impenetrable a mystery as when they first vanished from the sight of their friends.

Permit me to relate two anecdotes illustrating different phases of such disappearances.

Dr. King of London, in his book of "Anecdotes of His Own Time," published in 1819, tells the following story, which I cite in his own language :

“About the year 1706 I knew one Mr. Howe, a sensible, well natured man, possessed of an estate of £700 or £800 per annum. He married a young lady of good family in the west of England, her maiden name was Mallet; she was agreeable in her person and manners, and proved a very good wife. Seven or eight years after they had been married, he rose one morning early, and told his wife he was obliged to go to the Tower to transact some particular business. The same day at noon, his wife received a note from him, in which he informed her he was under a necessity of going to Holland, and should probably be about three weeks or a month. He was absent from her seventeen years, during which time she neither heard from him nor of him. The evening before he returned, whilst she was at supper and with some of her friends and relations, particularly one Dr. Rose, a physician who had married her sister, a billet without any name subscribed was delivered to her, in which the writer requested the favor of her to give him a meeting the next evening in the Birdcage Walk, in St. James Park. When she had read her billet, she tossed it to Dr. Rose, and laughing, ‘You see, brother,’ said she, ‘old as I am, I have got a gallant.’ Rose, who perused the note with more attention, declared it to be Mr. Howe’s handwriting. This surprised all the company, and so much affected Mrs. Howe that she fainted away. However, she soon recovered, when it was agreed that Dr. Rose and his wife, with the other gentlemen and ladies who were there at supper, should attend Mrs. Howe the next evening to the Birdcage Walk. They had not been there more than five or six minutes when Mr. Howe came to them, and after saluting his friends and embracing his wife, walked home with her, and they lived together in great harmony from that time to the day of his death.

“But the most curious part of my tale remains to be related. When Howe left his wife they lived in a house in Jermyn street, near St. James’ Church. He went no further than to a little street in Westminster, where he took a room for which he paid five or six shillings a week, and changing his name and disguising himself by wearing a black wig (for he was a fair man) he remained in this habitation during the whole time of his absence. He had had two children by his wife when he departed from her, but they both died young in a few years after. However, during their lives the second or third year after their father disappeared, Mrs. Howe was obliged to apply for an act of Parliament to procure a proper settlement of her husband’s estate, and a provision for herself out of it during his absence, as it was uncertain whether he was alive or dead. This act he suffered to be solicited and passed, and enjoyed the pleasure of reading the progress of it, in the votes, in a little coffee-house near his lodging, which he frequented. Upon his quitting his house and family in the manner I have mentioned, Mrs. Howe at first imagined, as she could not conceive any other cause for such an abrupt elopement, that he had contracted a large debt unknown to her, and by that means involved himself in difficulties which he could not easily surmount; and for some days she lived in continual apprehensions of demands from creditors, of seizures, executions, &c. But nothing of this kind happened.

“Mrs. Howe, after the death of her children, thought proper to lessen her family of servants, and the expenses of her house-keeping; and therefore removed from her house in Jermyn street to a little house in Brewer street, near Golden Square. Just over against her lived one Salt, a corn-chand-

ler. About ten years after Howe's abdication, he contrived to make an acquaintance with Salt, and was at length in such a degree of intimacy that he usually dined with Salt once or twice a week. From the room in which they ate, it was not difficult to look into Mrs. Howe's dining-room where she generally sat and received company; and Salt, who believed Howe to be a bachelor, frequently recommended his own wife to him as a suitable match. During the last seven years of this gentleman's absence, he went every Sunday to St. James' Church, and used to sit in Mr. Salt's seat, where he had a view of his wife, but could not easily be seen by her. After he returned home he never would confess, even to his most intimate friends, what was the real cause of such singular conduct; apparently there was none, but whatever it was he was certainly ashamed to own it. Dr. Rose has often said to me that he believed his brother Howe would never have returned to his wife if the money which he took with him, which was supposed to have been £1,000 or £2,000, had not been all spent; and he must have been a good economist and frugal in his manner of living, otherwise his money would scarce have held out; for I imagine he had his whole fortune by him, I mean what he carried away with him, in money or bank bills, and daily took out of his bag, like the Spaniard in 'Gil Blas,' what was sufficient for his expenses."

Dr. King received this remarkable story from Dr. Rose and Mr. Salt, whom he often met at King's Coffee House, near Golden Square.

Singular and eccentric as this conduct was, a not dissimilar case was lately brought to light in the neighboring State of New Jersey, where, in a partition suit, it was shown that one of the heirs at law had left his family there, and was

supposed to be dead, having been neither seen or heard from for twenty-two years, until one of his sons discovered him in California. (*Hoyt vs. Tuers*, 35 N. J., Equity R., p. 360.)

The other incident to which I alluded occurred in this city some years ago, and was related to me by a friend who happened to be called as a juror in the Court of General Sessions in this city, on a trial for manslaughter. The facts developed by the evidence showed that the prisoner was standing at the door of his shop, in one of the streets leading to a ferry, when he saw an intoxicated man coming towards him pursued by a crowd of shouting and laughing children. As he came opposite the shop, in a sudden access of drunken fury he caught up a large stone and was about to hurl it among his pursuers, when the prisoner ran out and interfered to protect them. A quarrel ensued, blows were exchanged, and the drunken man in falling struck his head heavily on the pavement and fractured his skull, with the result of immediate unconsciousness, soon followed by death. The prisoner was acquitted, but the noticeable fact in the trial was, that the deceased never recovered consciousness so as to give his name, and there were no marks on his clothing or papers on his person by which he could be identified. Although well dressed, well appearing, and to all seeming a person of some importance, the police were never able to obtain any clue to his identity, and he was buried as unknown; somewhere in the world a family has mourned the loss of a son, perhaps a husband and father, and another name has been added to the long list of those who have mysteriously disappeared.

The cases related are in my opinion of sufficient interest to justify an examination of the law relating to presumptions



of death. Best on "Presumptions of Law and Fact," states the rule to be that "the death of any person once shown to have been alive is a question of fact to be determined by a jury; and when the body is not forthcoming, as the legal presumption is in favor of the continuance of life, the onus of proving the death lies on the party who asserts it." When a person goes abroad and has not been heard of for a long time, the presumption of the continuance of life ceases at the expiration of seven years from the period at which he was last heard of. The same rule holds generally with respect to a person who has gone away from his usual place of resort, and of whom no account can be given, but the presumption does not extend to the time of his death, *i.e.*, whether he died at the beginning or at the end of any particular period of the seven years. In the case of *Watson vs. England*, which came before the Court of Chancery, some years since, it was attempted to enforce as a presumption, that a female who had left her father's house in 1810, and had not been heard of for thirty-four years, was dead. No decision was come to, the Vice-Chancellor observing, from the great uncertainty of the evidence, that if he presumed her death, the woman might walk into Court and disprove all. In one case, according to Best, the Court of Queen's Bench said that they could not assume judicially that a person alive in the year 1034 was not alive in 1827 (Taylor's Medical Jurisprudence, Vol. 1, p. 165). So Mr. Phillips, in his work on evidence, states that "the presumption of continuance of human life ends, in general, at the expiration of seven years from the time when the person was last known to be living; but the death of a party may be presumed in a shorter time, under the peculiar circumstances of the case." (Phillips on Evidence, Vol. III.,

p. 598.) Mr. Greenleaf states the rule and the reason for it as follows: "Other presumptions are founded on the experienced continuance or permanency of longer or shorter duration in human affairs. When, therefore, the existence of a person, a personal relation, or a state of things is once established by proof, the law presumes that the person, relation, or state of things continues to exist as before, until the contrary is shown, or until a different presumption is raised, from the nature of the subject in question. Thus, where the issue is upon the life or death of a person once shown to have been living, the burden of proof lies upon the party who asserts the death. But after the lapse of seven years, without intelligence concerning the person, the presumption of life ceases, and the burden of proof is devolved on the other party." (Greenleaf on Ev., Part I, Chap. IV., Sec. 41.) In like manner Mr. Starkie: "So, where the existence of a particular individual has once been shown it will, within certain limits, be presumed that he still lives. The presumption as to a man's life after a number of years must depend upon many circumstances: his habits of life, his age, and constitution; the probable duration of life of a person, as calculated upon an average, may, of course, be easily ascertained in every particular case; but for the sake of practical convenience, the law lays down a rule in some instances which appears to have been very generally adopted, that after a person has gone abroad, and has not been heard of for seven years, it is to be presumed that he is dead." (Starkie on Evidence, p. 76.) So Mr. Wharton: "By the Canon law, no length of absence gives a presumption of law of death; the presumption is one of fact, depending on the concrete case. By the English Common Law at the close of

a continuous absence abroad of seven years, during which time nothing is heard of the absent person by those who would naturally have heard of him, if alive, death is presumed, as a presumption of law rebuttable by proof or counter presumptions. This view is accepted in most jurisdictions in the United States. But if there is no proof of unexplained absence, the mere lapse of time, even supposing it would make the party eighty years old, if living, is not by itself enough to prove death. It is otherwise when the party would have reached the limits beyond which life, according to ordinary observation, is improbable, though even when one hundred years is reached, the conclusion is not absolute. With other circumstances (*e.g.*, non-claimer of rights or exposure to peculiar sickness or other calamity, or advanced years), death at a far earlier period may be inferred.

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“It has been incidentally observed that, aside from the general presumption of death arising from unexplained absence for seven years, certain facts have been noticed by the courts as affording grounds on which inferences of death, more or less strong, may rest. Among these facts may be noticed : presence on board a ship known to have been lost at sea, the inference of death increasing with the length of time elapsing since the shipwreck, exposure to peculiar perils to which death will be imputed if the party has not been subsequently heard from ; ignorance, as to such person, after due enquiry of all persons likely to know of him if he were alive, cessation in writing of letters and of communications with relatives, in which case the presumption rises and falls with the domestic attachments of the party. Thus death may be inferred by a jury from the mere fact that

a party who is domestic, attentive to his duties, and with a home to which he is attached, suddenly, finally, and without explanation, disappears. It is scarcely necessary to say that evidence tending to rebut such presumption (*e. g.*, proof that the alleged deceased had been heard from by letter, or was personally warned in a litigated suit) is always relevant for what it is worth.

“It must be also kept in mind that, in any view death is a matter of inference, not of demonstration, depending upon an identification of remains, as to which there is always a possibility of mistake.” (Wharton on Evidence, Sec. 1,274 and 1,277.)

Having collated these authorities from the text books, it is in order to see how far they are sustained by the reported cases.

This subject is elaborately treated by the late Surrogate Bradford, in Eagle's case reported in 3 Abbott's Practice Reports, p. 218. The question was presented on the probate of a will, one of the legatees named in which, William Eagle, had been absent between five and six years, and it became necessary to determine whether he died before or after his father, the testator. The facts presented showed that he had been a sailor from the age of sixteen years. He first made a whaling voyage to the Pacific, and, although absent from home for four years, does not seem to have been heard from during that period. His subsequent voyages were principally to the coast of South America, and the last intelligence received from him was by a letter written at Baltimore something more than five years previous to his father's death, addressed to his brother-in-law. In this communication he stated that he had just arrived at that place from

Montevideo as mate of a vessel, and said : " Since I have arrived I have been offered charge of an hermaphrodite brig to go to the coast of Africa, and I am balancing in my own mind between a captaincy and an old vessel and the coast fever. I shall determine in a few days."

He was never heard of or from again.

By the Roman Law captivity was equivalent to civil death, and if the husband were taken prisoner the wife might marry again ; but no time was prescribed during which she should await his return, until the terms of four and ten years were successively required by Constantine and Justinian (Novel 22, Ch. 14). By Novel 117, (Ch. 11), it was ultimately provided that there should be proof of the death before the wife could marry again. Absence, however long, without certain news did not authorize a second marriage, and with this determination the Common Law agreed. In respect to property one hundred years was stated as the limit of the presumption of life in the case of absent persons, *quia is finis vite longaevis hominis est*. (Dig. Lib. 7, Tit. 1, Sec. 56. Cod. Lib. 1, Tit. 2, Sec. 23.) In conformity with this rule, in the greater number of countries on the continent which adopted their jurisprudence from the civil law, the doctrine prevailed that an absent person should be presumed to be living for a hundred years from the time of his birth, that being the longest limit of ordinary life. Sunihame mentions several conflicting views, some of the civilians claiming seventy, and others a hundred years, as the proper time. (Sunih., Pt. 6, Sec. 13, pl. 2.) A term so long and unreasonable, eventually become shortened by custom and statute, and the several periods of three, five, seven, nine and ten years were adopted in various countries. (Merlin, Absent, Act 115, Code Civil.)



The Common Law is in accordance with the Civil Law in the adoption of the principle that the continuation of life is presumed until the contrary be shown. The statutes relative to bigamy and leases for life (1 Jac. 1, Ch. 11, Sec. 2 ; 19 Car. 2, Ch. 6), made an inroad upon this doctrine and established a rule, which was ultimately adopted by way of analogy in cases beyond the province of the statutes. Accordingly, when a party has been absent seven years since any intelligence of him, he is, in contemplation of law, presumed to be dead. This length of time may be abridged, and the presumption be applied earlier, by proof of special circumstances tending to show the death within a certain period—for example, that at the last accounts the person was dangerously ill, or in a weak state of health—was exposed to great perils of disease or accident; that he embarked on board of a vessel which has not since been heard from, though the length of the usual voyage has long elapsed. In such cases it is to be determined as a question of fact depending on evidence when death probably occurred, and if the circumstances known are sufficient to authorize such a conclusion, the decease may be placed at a time short of the seven years, as the proof may indicate. But when there are no facts material to the solution of the question, except simply absence without being heard of, then at the end of seven years the law presumes death.

The learned Judge then discusses the question of when the death occurred, whether at the beginning or end of the seven years, or at what other time, and examines the English cases on this point. In *Rex. vs. The Inhabitants of Harbourn* (2 Ad. and E., 540) and *Nepau vs. Knight* (5 B. and Ad., 93, 2 Mee. and W., 894), the Courts of King's Bench

and of Exchequer adopted the doctrine that when the seven years have passed, the law simply presumes death, and there is no presumption as to the time of death. Lord Denman, in delivering the opinion of the Court, held this language: "It is true the law presumes that a person shown to be alive at a given time remains alive until the contrary be shown; but when the seven years have passed the presumption of law relates only to the fact of death, and the time of death, wherever it is material, must be a subject of distinct proof. Whoever finds it important to establish death, at any particular period, must do so by evidence of some sort."

After examining the American cases, Judge Bradford proceeds: "There can be no doubt that under certain circumstances, this is to be treated as a question of fact, and the language of Lord Denman is in that view strictly pertinent when he says: 'Nothing can be more absurd than the notion that there is to be any rigid presumption of law on such questions of fact without reference to accompanying circumstances—such, for instance, as the age or health of the party. There can be no such strict presumption of law.' What, however, is a Court or Jury to do, when there are no accompanying circumstances—when there is no ground in fact for inferring death at any particular time? The question is not whether those presumptions are rigid and strict, but whether there are any such presumptions, and if so, what is their effect when there is an entire dearth of evidence tending to guide the conclusion as to life or death. Confessedly before the analogy drawn from the statutes of bigamy and life tenancies prevailed, it was a rule of evidence to presume life, unless the contrary was shown. That rule still continues, except so far as it has been modified by the presumption

drawn from the statutes, of death, after seven years absence without intelligence. The practical effect of these two rules, if both are to be taken as subsisting, is that whenever the law is invoked as to rights depending upon the life or death of the absent party, he is to be deemed as living until the seven years have expired, and after that is to be deemed as dead. Not that the law finds as matter of fact that he died on the last day of the seven years, but that rights depending on his life or death are to be administered as if he had died on that day. It is impossible to say when he died, or even to assert as a matter of fact that he is dead; but in the absence of all evidence the law will account him as dead at a certain time and not before. This is an artificial rule, and of course cannot be expected to square with the actual fact. It is the logical result of the presumptions, founded upon reasons of convenience, and the necessity of fixing upon some limit within which the relations of the living to the absent are to be determined, more than upon any strong probabilities. This is the meaning of our statute in respect to life estates, which declares that if the life-tenant shall absent himself for seven years, and his death shall come in question, "such person shall be *accounted* naturally dead" in any action concerning the lands in which he had the estate for life, unless sufficient proof be made that he is still living. (1 Rev. Stats. 749, Sec. 6; See Bigamy, 2 Rev. Stats. 687, Sec. 9.) 'He shall be *accounted* dead.' The statute so treats, just as the Common Law treated and accounted, him living until his death was proved. In neither case can it be said that his life or death has been actually proved; but in both cases it may be said that he shall be accounted living until by reason of his absence the law accounts him dead; and for

the purposes of justice, the rights and relations of parties affected by his life or decease, shall, in the absence of information, be determined by this technical presumption.

“This certainly seems to me the most consistent and symmetrical rule; and when it is regarded as a dry legal doctrine adopted for purposes of convenience, and from the necessity of having some limited period for the determination of the rights of absent persons, and not as a determination upon the death or the real time of the death, there would appear to be no grave objection against it. I am inclined to hold, therefore, that in the case of absent persons it is within the province of the Court or Jury to infer from circumstances, if any appear in proof, the probable time of death, but that if no sufficient facts are shown from which to draw a reasonable inference that death occurred before the lapse of seven years, the person will be accounted, in all legal proceedings, as having lived during that period.”

The present statutory provision in this State is as follows:

“A person upon whose life an estate in real property depends, who remains without the United States, or absents himself in the State or elsewhere, for seven years together, is presumed to be dead, in an action or special proceeding concerning the property, in which his death comes in question, unless it is affirmatively proved that he was alive within that time.” (Code of *Remedial Justice*, Sec. 841.) This somewhat vague language is defined by Chancellor Walworth in the case of *McCartee vs. Camel*, 1 Barbour Ch. R. 456, where he said “When the person, whose death is to be presumed is in fact within the United States and not technically beyond sea, ‘absenting himself in this State or elsewhere,’ must mean absenting himself from his last place of

residence in this State or in the United States, which was known to his family or his relatives who would be likely to know whether he was living; and from whom a party in the search of the truth would be likely to make inquiries. The mere fact therefore that the party has absented himself from the place of his birth, or from his original domicile, for more than seven years, does not raise a presumption that he is dead."

Mr. Charles Marshall, in his work on Insurance, lays down the rule that "When it is uncertain whether the death happened within the time limited, this is a question of fact which must be left to the decision of a Jury," and cites as authority the case of *Patterson vs. Black*, at Nisi Prius, Hilary Vacation, 1780, where an insurance was made on the life of L. Maclean, from the 30th of January, 1772, to the 30th of January, 1778. In an action on the policy it appeared that about the 28th of November, 1777, he sailed from the Cape of Good Hope in the "Swallow" sloop of war; which ship not being afterwards heard of, was supposed to have been lost in a storm off the Western Islands. The question was, whether Maclean died before the 30th of January, 1778. To establish the affirmative of that question, the plaintiff called witnesses to prove the ship's departure from the Cape with Maclean; and several captains swore that they sailed the same day; that the "Swallow" must have been as forward in her course as they were, on the 13th or 14th of January, the period of a most violent storm, in which she probably was lost, and that the "Swallow" was much smaller than their vessels, which with difficulty weathered the storm. Lord Mansfield left it to the Jury to say whether, under all the circumstances, they thought the



evidence sufficient to convince them that Maclean died before the time limited in the policy; adding that if they thought it so doubtful as not to be able to form an opinion the defendant ought to have their verdict. They found for the plaintiff. (Marshall on Insurance, p. 781.)

It is impossible to say in this case that the verdict of the Jury was not justified, as the facts presented were such as to create a reasonable probability that the vessel in which the insured had embarked was lost with all on board, and the life insurance companies are frequently called upon to make payments in similar cases. The only requirements that can justly be made are conclusive evidence that the insured set sail on the missing vessel, and a strong presumption that she was lost at sea. A somewhat similar case arose not long since in regard to a gentleman who left Boston for New York by the Fall River boat. He was proved to have been on board of the boat during the evening; to have taken supper on her; and all traces of him was lost from that moment. He was a man over 50 years of age, quite nearsighted, subject to attacks of vertigo, and was supposed to have fallen overboard; but although large rewards were offered for the recovery of the body, handbills freely distributed along both shores of the Long Island Sound, an extensive detective force employed and stimulated by the prospect of great pecuniary gain, no result was obtained. Here it is easily conceivable that the missing man might have been engulfed in the waters of the Sound, and his body buried in its depths, or swept out to sea.

A similar case to this is that of *Boyd vs. New England Mutual Life Insurance Co.*, decided by the Supreme Court of Louisiana in May, 1882, in which the facts were, that Clot-

worthy Boyd, the subject of the insurance, left Brashear City in July, 1875, on a voyage by sea to Galveston. In company with one Dowling he occupied a stateroom opening on the guards, abaft the wheel-house, near which was a space where the edge of the vessel was protected by nothing but a swinging chain. Boyd, during the day, was very sea-sick, and he and Dowling sat on the guards opposite the space, and Boyd frequently went to the edge and vomited over the chain. Late at night, Boyd continuing to suffer, they went to their stateroom, and Dowling undressed and went to bed; but Boyd soon after complaining of sickness and the close air, asked Dowling to get up and take him out. Dowling excusing himself, he went out alone, and has never since been seen or heard of. Dowling, on awaking in the morning, found his berth vacant. Not specially alarmed at first, he inquired of the steward, who told him he had not seen him; then, after waiting a while, made a search for him with the steward, without finding him. The steamer arrived in Galveston about 10 A. M., and Dowling watched the passengers go ashore to see if Boyd would come out. He then went to the residence of Boyd's brother in Galveston, and informed him of the circumstances. Boyd has never since been heard of. His valise, which was his only baggage, remained on the vessel, and his hat was also found on board, though the evidence as to where it was found is not satisfactory. Nearly seven years had elapsed since the date of the disappearance, and the Court was not advised that any tidings had yet been heard of him.

Fenner, *J.*, in delivering the opinion of the Court, said : "If the proof of death stood upon a bare presumption following exclusively from the mere disappearance of Boyd, we

agree with the counsel for defendant, that the duration of his absence without being heard of would not be sufficient to support a presumption equivalent to proof of death, under the articles of our Code, touching absentees. (C. C. Arts. 57, 75). But death, like all other facts, may be established by circumstantial evidence when from the nature of the case direct evidence is not accessible. Absence, without being heard of, though not of sufficient duration to create a legal presumption of death, may yet be one of other attendant and supporting circumstances, which, taken together, would satisfy the mind and conscience of the Judge or Jury that the party was dead. This is all that is required. Thus, disappearance under circumstances of shipwreck, or earthquake, or battle, or explosion, or like perils, might well produce such conviction. And this Court has held that in such matters it is essentially within the province of the Judge to draw the line of distinction by the exercise of a sound discretion, founded on the facts of each particular case."

Succession of Vogel, 16 An., 139 ;

Succession of Jones, 12 Ib., 397 ;

The Reporter, Vol. xv., p. 147.

But there are cases, not infrequent, where no such solution is possible, and the cause of the absence is totally unexplained. One such is that of *Hancock Admr. vs. The American Life Insurance Co.*, in the Supreme Court of Missouri, reported in 5th Bigelow Life and Accident Reports, 248. The facts shown were that the supposed decedent, Henry C. Morris, was a single man ; that for many years previous to his alleged death, he had been in the habit of spending his time in the South, engaged in mining speculation ; that he left the South and was for some time visiting his friends and

relations in Quincy, Illinois, and from there went East, and during the winter of 1860 and 1861, he boarded with a Dr. Scott, in New York City. At Albany he became interested in a patent stove, which he designed introducing in the South, and had a pattern made and shipped there for him. The Rebellion at that time was about to commence, and he was open and outspoken in his sympathy with the Southern people, and declared his purpose to go South and take up arms in their defense. His health seems to have not been very good, though the witnesses think that he was able to attend to business. About the 1st of March, 1861, he left his room at Dr. Scott's with the intention of going to Brooklyn, and did not return. His clothes and valise were left in his room, but they were of little value. His friends and relatives testified that they never saw or heard of him any more. Dr. Scott testifies that he received a letter from him in the September following, but there was testimony going to show that he was mistaken, and it is evident that the Jury must have thought so. It appears also that Morris was indebted to Dr. Scott, and also to a lady for borrowed money; that previously he was in the habit of writing to his friends and relatives, but after his disappearance, about the 1st of March, they never received any letters from him.

Upon these facts the question was submitted to the Jury whether Morris died before June 6th, 1861, at which date the policy lapsed for non-payment of premium, and they found that he did. In reviewing the case in the Appellate Court, Chief Justice Wagner says: "It may well be conceded that where a person who is studious in his habits, attentive to his business, has a fixed and permanent residence, and is surrounded by those influences which are calculated

to endear him to his home, suddenly and unaccountably disappears, a presumption may arise which would warrant a jury in finding that he is dead. But will the circumstances of this case warrant the admission of any such doctrine? Morris had no family, he had no fixed or permanent place of abode. For years he had been residing in the South, being in different States, and engaged in different places. He told his relatives that he was going back to the South. He made arrangements to introduce a patent there. He was warm in his sympathies for the Southern cause, and expressed his determination to take up arms in its defense. No intention was ever shown of staying in New York, or with his friends in the North. According to his declared design he was going South, as thousands of others did in those times.

“The case therefore simply presents a sudden and unexplained absence on the part of Morris, without being accompanied with any surrounding perils, and with his often repeated declaration that he intended to go to another part of the country where his interests and sympathies were centred. The law will now presume that he is dead, but there is no presumption that he died previous to the expiration of seven years from his disappearance, and there was no evidence of death prior to the 8th of June, 1861, to entitle the case to be submitted to the Jury.”

The judgment was therefore reversed, The case conceded in *Hancock vs. American Life Insurance Co.* (supra), when a person “studious in his habits, attentive to his business, having a fixed and permanent residence, and surrounded by those influences which are calculated to endear him to his home, suddenly and unaccountably disappears,” arose in Iowa, and was referred to in the opinion quoted. In this



case (*Tisdale vs. Connecticut Mutual Life Ins. Co.*, 26 Iowa R., 170), the insured was a young man of exemplary habits, excellent character, of fair business prospects, respectably connected, and of the most happy domestic relations. He had the fullest confidence of his friends, and the entire affection of his wife, and was living in apparent happiness, with no cause of discontent with his condition which would have influenced him to break the domestic and social ties with which he was so pleasantly bound to life. Visiting Chicago, Sept. 25th, 1866, upon business, he was last seen by an acquaintance on the corner of Lake and Clark streets, in that city, about 3 P. M. of that day; no trace of him was afterwards discovered, though his friends made every effort to find him, and ascertain the cause of his mysterious disappearance. A large reward was offered through the newspapers for any information that would lead to his discovery, either dead or in life. The detective police were employed to search for him without results. No tidings were ever received of him, and not the faintest trace of the cause or manner of his disappearance was ever discovered.

He gave no intimation to any one of an intention to absent himself, and the latest declaration of his intentions was to the effect that he expected to leave Chicago on the day of his disappearance to join his wife, at Dubuque. He owed no debts amounting to any considerable sum, and had made payments of small ones about the day of his disappearance. His valise, containing clothing and other articles commonly carried by travelers, was found at his hotel, and his bill was unpaid. In the Circuit Court, the Jury was instructed that to raise a presumption of death within a time less than seven years, it must be shown that the person alleged to be dead

was subject to some special peril, which might reasonably be supposed to have produced his death.

In the Supreme Court, this instruction was declared to be wrong, and it was held that evidence of character, habits, domestic relations, and the like, making the abandonment of home and family improbable, and showing a want of all those motives which can be supposed to influence men to such acts, may be sufficient to raise the presumption of death, or from which the death of one absent and unheard from may be inferred, without regard to the duration of such absence.

This decision carries the doctrine of presumption to an extreme, and to my mind, a very dangerous length. It in effect reverses the old doctrine of a presumption of life, and presumes that a man who leaves his home and friends is dead, unless some good reason can be discovered for his departure. It ignores the limitations stated by Judge Bradford, in Eagle's case (*supra*) of "special circumstances tending to show the death within a certain period—for example, that at the last accounts, the person was dangerously ill, or in a weak state of health, was exposed to great perils of disease or accident, or that he had embarked on board of a vessel which has not since been heard from, though the length of the usual voyage has long elapsed." It assumes simply that because a motive cannot be discovered, none existed, and that mere absence, without satisfactory explanation, raises a presumption of death. In a case arising on another policy upon the same life (*Tisdale vs. Mutual Benefit Life Ins. Co.*) in the Circuit Court of the United States in Iowa, reported in 4th Bigelow's Life and Accident Ins. Reports, page 58, Mr. Justice Lowell, in charging the Jury, said:

“Supposing you should adopt the defendant’s theory of the case, looking at it from his stand-point, to wit, that Tisdale was not dead at the time letters of administration were issued, but that he had absconded; in the absence of any motive on his part to abscond, it will not be presumed that he did abscond; but if from the evidence the Jury find the fact to be that he did abscond, then the want of motive would have nothing to do with the case. If the Jury find that he did abscond, then it would follow that some motive existed. The absence of motive to abscond is a material fact, to be considered in a doubtful case. If the principal fact be proved, that is, if this party was seen at Baxter Springs sometime subsequently to the appointment of an administrator, and this fact is shown as proof of his having absconded, then the fact of a want of motive to abscond is unimportant, because we cannot always look into the human heart and discover its motives. Crimes are frequently committed of a very grave nature, and yet we can discover no motive. In general, motives must be inferred from facts, rather than facts inferred from motives. If it is established by proof that an act has been done, we know there has been some motive for it, though we cannot see what that motive was.”

This reasoning appears to me to be sound, and to dispose of the difficulty which induced the Supreme Court to assume that the insured must be dead, because they could find no motive for his leaving his home, family and friends. The Judge well intimated that no human being can read the mind or appreciate all the motives which govern the actions of another; and the fact that we cannot discover the reasons which led a man to commit a certain act, does not at all

prove that he did not have reasons satisfactory to his own mind, and justifying, to him, his course of action. I am incapable of appreciating that the presumption that a man could be done to death or commit suicide in a crowded city without leaving a trace behind him, is any less violent than that he should have had reasons for hiding himself from all who knew him, with which his family and friends were not acquainted. For there are only a few conceivable explanations of so-called mysterious disappearance. If alive, the missing person must have deliberately absconded, been abducted, or confined in some hospital or asylum as the result of sudden bodily or mental disease or accident; if dead, he must either have been murdered, killed by accident, or committed suicide, under circumstances which either left no trace of him whatever, or precluded the possibility of identification. That one of the latter group of contingencies is possible cannot be denied; but that in the absence of any proof whatever, one of them should be presumed rather than one of the former group, seems to be unwarranted by what we know of natural laws. On the contrary, considering the presumption of life, I think we are bound to assume some contingency consistent with that presumption, rather than the contrary.

There is no wild improbability in assuming that a person situated as was the insured in the case last cited may abscond from home and conceal himself elsewhere, for reasons unknown to others but satisfactory to himself. And this is the only case I have found in which it was held that mere absence, in itself, and unaccompanied by any proof of circumstances importing a danger to life, was sufficient to justify a Jury in finding the fact of death. The opinion is therefore supported neither by reason nor authority, and may be regarded as of slight value as a precedent.

Some years ago life policies were issued containing a provision that no presumption of death should arise from disappearance until the policy should have been continued in force by the payment of premiums throughout the expectation of life of the person upon whose death the contract matured according to the company's table of mortality, reckoned from the date of the policy. This is probably the fairest rule for all concerned, as it gives the company what it had the right to expect when it issued the policy, and requires the beneficiary to pay what he should have expected to pay. In the absence of any such provision the question of death is one of fact, and the rule of presumption appears to be, that if the insured was exposed to any circumstances of special peril, such circumstances conjointly with his absence will justify the Jury in finding the fact of death, but without such circumstances, mere unexplained absence will not sustain such a finding before the expiration of seven years. After that period the burden of proof shifts, and it devolves upon the defendant company to prove that the insured is still in being.



# EXPERTS AND EXPERT TESTIMONY.

BY HON. DELANO C. CALVIN, EX-SUBROGATE OF NEW YORK. \*

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I have considered the paper of Dr. Wight upon the subject of "Experts and Expert Testimony," and given its suggestions and recommendations such thought as their great importance seemed to demand. Not as an attempt to exhaust the subject, but principally to so present its different phases as to facilitate their proper discussion. It is assumed that the discussion is intended to be limited to the subject of expert testimony as it relates to medico-legal inquiries. The first noteworthy suggestion of the learned author, after citing many illustrations contained in a variety of adjudged cases, is couched in the following language: "Expert testimony just so far forth as it contains the special knowledge of the witnesses, and is pertinent to the issue, is relevant, material, and may be essential to the ends of justice; but just so far as it is *opinion*, personal view or theory, it is irrelevant, immaterial, and may be mischievous." Yet farther on the writer says in substance, that experts might be allowed to give general conclusions, "in order to sum up groups of separately indefinable facts within their knowledge. But even such general conclusions are relevant only so far forth, as they are the generalized expression of grouped facts and exact knowledge. \* \* \* It follows of neces-

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\*Read before the Medico-Legal Society, on Wednesday evening, March 7th. 1883.

sity, that an expert witness is one who has special knowledge of the kind here indicated, to impart under oath, for the enlightenment of Court and jury."

This view is earnestly maintained in an article in the July number of the *American Law Register* of 1882, page 425, &c., in the following language : "The discussion of the value of expert testimony frequently occupies the attention of the Courts, and is made in a large proportion of cases the subject of adverse criticism, on the part of the learned Judges. This will continue to be the case so long as the statement of scientific facts, and the *opinions* of scientific men are allowed to be received in the Courts, and are classified by them (under the same head) as expert testimony. Scientific testimony, that is scientific facts, from the very nature of the case, must be admitted to be the very best class of testimony, while the *opinions*, or guesses of scientific men, like all other guesses, are often as likely to be wrong as right.

"The essential idea of an *opinion* seems to be, that it is a matter about which doubt can reasonably exist, as to which two persons can, without absurdity, think differently. But if the subject under consideration is fully analyzed, and the facts in the case made plain to the jury, so that they are thus enabled to form conclusions for themselves, expert testimony ceases to be a matter of *opinion*, so far as the witness is concerned, and becomes, like any other legitimate testimony, matter of fact."

Mr. Justice Davis in the Supreme Judicial Court of Maine in the case of Neal says : "They (medical experts) may be able to state the diagnosis of the disease more learnedly ; but upon the question whether it had at a given time reached a stage, that the subject of it was incapable of making a con-

tract, or responsible for his acts, the *opinion* of his neighbors, if men of good common sense, would be worth more than that of all the experts in the country. Theories must yield to facts." But the Judge seems to have mistaken the "*opinions* of his neighbors" *for facts*.

Judge Woodruff in *Gay vs. Mut. Ins. Co.*, 2 Bigelow's Ins. Rep., 14, cited by Dr. Wight, says: "Testimony of experts

\* \* \* \* where the speculative and theoretical character of the testimony is illustrated by opinions of experts on both sides of the question, is justly the subject of remark, and has been often condemned by Judges as of slight value."

From the best consideration I have been able to give to this important branch of the subject discussed in the paper under review, I am of the opinion that the adverse criticism above quoted, is more the result of unwise selection of experts, both as to the individuals chosen and the method adopted in their selection, than any necessary inutility of expert *opinions*.

It is quite true, as is well said by the author: "Expert testimony, just so far forth as it contains the special knowledge of the witnesses, and is pertinent to the issue, is relevant, material and may be essential to the ends of justice," but it is confidently submitted that the learned author is in error when he asserts that *opinions* are irrelevant or immaterial. It may be conceded that the former, *the statement of scientific facts*, is of primary importance and value, and that *opinions* are of a lower order of testimony, and they should not be classed together; and it is quite probable that a failure to discriminate as to their relative importance has occasioned confusion and provoked much of the criticism of expert testi-

mony by the Courts; besides how "general conclusions that are the generalized expression of grouped facts and exact knowledge" differ from expert *opinions* is not apparent.

The admissibility of *opinions* has become so well established by a long line of adjudications that I shall hesitate to recommend the relaxation of the rule, from any suggestions contained in the paper under consideration, or any defects which have been disclosed in past judicial proceedings. So long as human judgment shall remain fallible there will be differences of *opinion* based upon the same facts, whether expressed by a witness under the solemnities of his oath, or by a judge or jury under a like obligation; and the same frailty will prevent any system of judicial inquiry from becoming perfect; our aim should be to approximate that result as nearly as practicable.

It is difficult to see how the *opinions* of experts can be discarded without materially impairing the value of expert testimony. In cases involving questions of mental capacity, of mental health or disease, the most difficult, obscure and technical; how are a non-expert Court and jury to form a safe *opinion* from a "statement of the scientific facts," with no knowledge of the relative value and significance of those facts, in reaching the right conclusion or *opinion*? If the statement of scientific facts by intelligent, experienced and impartial witnesses is necessary for the formation of an *opinion* by the Court or jury, then it would seem perfectly obvious that the expert, capable of stating those facts, and familiar with their practical operation, would be most likely to reach the right solution of their combined significance, and greatly aid the Court and jury in the performance of their duty. Indeed, would not the rejection of expert *opinions* practically abolish hypothetical questions?



I would only add this word of caution that established *facts* should never yield to any amount of *opinions or theories*, based upon hypothetical questions.

The author says: "Judges forget that in animadverting upon the character of expert witnesses admitted to testify in their Courts, they are criticising their own negligence," but he omits to state how the Court could remedy the evil he condemns. It seems evident that without legislation, the Court has no power to dictate who shall be called as an expert witness; nor can such a witness be rejected, if, on being called, he shall testify to such facts as will raise a *presumption* of special knowledge; and the difficulty seems insurmountable as a *preliminary* question where the Court shall be ignorant of the subject of inquiry.

Judge Redfield, in his treatise upon the "Law of Wills," 1 vol., p. 101, note, well, says: "But there is, so far as we know, no other mode of excluding the testimony of ignorant pretenders, and mere sciolists and empirics upon professional subjects, except the test of cross-examination; and to be effectual for that purpose it must be allowed to become pretty searching, provided only, that it be conducted upon fair and just grounds, and in an unexceptional manner, which is the only mode of making it effectual before an intelligent jury."

Dr. Wight says: "The habit of allowing parties in litigation to select experts beforehand for their ascertained favorable opinions, and to bring them into Court as partisan witnesses, is a desecration of the temple of justice. For that reason we are frequently entertained with the said spectacle of two sets of experts giving solemn testimony in direct contradiction to each other." And he quotes the language of



Judge Redfield in his work on Wills, Chap. III, Sec. 13, "If the State or the Courts do not esteem the matter of sufficient importance to justify the appointment of public officers \*"

\* \* \* it is certain that the parties must employ their own agents to do it, and it is almost equally certain, that if it be done in this mode it will produce two trained bands of witnesses, in battle array against each other, since neither party is bound to produce, or will be likely to produce, those of their witnesses who will not confirm their views."

Judge Davis in the case of Neil above cited says upon this subject, "If there is any kind of testimony that is not only of no value, but even worse than that, it is, in my judgment, that of medical experts."

Judge Redfield, in further discussing this subject, in a note at p. 101, says, "The opinion of the inutility of the testimony of medical experts upon questions of insanity or mental capacity, arises chiefly from the fact, that so many gentlemen of about equal experience testify so diametrically opposite to each other, upon all the leading points of the case, without being able to assign any reason satisfactory to the common mind, why they should be brought to such different results, and leaving no satisfactory mode of explaining it, except that which applies equally to counsel, that they have been selected to present the strongest views of the side by which they are summoned. \* \* \* We can comprehend well enough that there are many gentlemen of that class of experts, who are entirely capable of presenting both sides of a case, and holding the balance precisely even between them; but we believe it is not so with the majority of men of any class when exposed to the perverting influences of one-sided views and arguments, and above all, one-sided

statements of fact, by those in whom they have been accustomed to confide, but when you add to these the partisan retainer, you are quite sure to invest the expert, however capable, with the character and feeling of partisanship.

\* \* \*” And at page 104, he says :

“That has become so uniform a result with medical experts of late, that they are beginning to be regarded much in the light of hired advocates, and their testimony as nothing more than a studied argument in favor of the side for which they have been called.”

These utterances, while they express the very general experience of Courts, convey an unjust imputation upon *medical experts*, as though they were the *only* ones who so widely and generally differ in the expression of expert *opinions*, and become partisans. The same contrariety of *opinion* and partisanship is observed in all classes of experts. He who has attempted to prove by professional experts the law of any particular State or country has experienced it. Indeed, considering that judicial officers are exempt from temptations to partnership, and free from the bias of retainer, is not the lack of judicial uniformity a very suggestive admonition to the Courts to be less vehement in their censure of *medical experts* because of the contrariety of their expert *opinions* ?

But in this connection I deem it to be my duty to say, that some experience and considerable reflection have persuaded me that some of the judicial animadversions upon the inutility of *medical experts*, especially of *alienists*, is due to the imprudence or conceit of the witnesses themselves. To illustrate : Isolated instances of peculiar conduct and mental eccentricities are grouped together in a hypothetical question to a medical expert, and his opinion asked as to the

mental condition of the person supposed; and almost invariably the expert has expressed an unqualified opinion, when it should have been perfectly apparent, that the facts may have failed to give anything like an accurate statement of the person's general characteristics or mental manifestations. A person's character or mental development is not made up of, or evinced by occasional acts or exceptional utterances but the general tenor of his life and conversation. Indeed, there may be selected acts of an unusual, unreasonable and inexplicable character in the life of most men, when wrested from their natural connections, attendant motives and provocations, and separated from the qualifying and countervailing acts of their ordinary life, which would suggest doubts of their sanity. This is peculiarly true of men of strong wills and intense individuality. Instances will readily occur to most of us.

The exercise of a little common prudence on the part of such experts, would relieve them from the censure of the Court, and give value to their testimony. Their answer should be, "If the facts grouped together in the question are in harmony with the general tenor of the person's conduct and mental manifestations, then I should say that they indicate soundness or unsoundness, as the case may require; but if on the contrary they are exceptional, I shall need to know more of the general tenor of his ordinary life, to enable me to determine as to his mental condition."

There are doubtless *cases*, where the disclosure of certain acts and manifestations would unmistakably betoken mental unsoundness, if not the result of temporary disease or intoxication, but they are exceptional, easily defined and readily distinguishable from the great majority of cases.

A remedy for the presentation of incompetent and biased *experts*, is suggested by the author of the paper under consideration, as follows: "The expert should be called in by the Court, be under the considerate protection of the Court, and should be compensated adequately by the public, as other officers of the Court are compensated. In no case should the interested parties to a suit be allowed to employ experts; and in turn experts should be prohibited, under severe penalties, from receiving any fees from litigants. In my judgment it would be well for medical societies organized on a sound basis, to designate those who are especially learned and skilled in particular departments of medicine and surgery, as proper experts in those departments, and from time to time to furnish a list of such to the Courts in their locality. Laws that may be needed to carry out a plan of this kind ought to be speedily enacted."

Judge Redfield upon this point says, at page 156, in a note, "Some mode should be devised whereby the motive which is now offered to this class of witnesses to testify so exclusively for one side, should be not only counteracted, but that it should be entirely removed, and a contrary motive, for impartiality, presented. The remedy will be characterized, in some degree, by the nature and cause of the difficulty to be removed. This we think depends largely upon the fact that the experts are selected and paid by the parties, and come into Court as the hired advocates of those who employ them—any man when approached by the counsel of one party, and furnished only with the views and the facts of one side, and asked to give his *opinion*, naturally gives a one-sided opinion; and having committed himself to one side, he is thereafter rendered incapable of forming a fair and unbiased



judgment upon the facts of the case. He becomes disqualified to act as a juror in the case. And when it is considered that this testimony is given to instruct, educate and inform the Court and jury in regard to the proper mode of determining the case, and that it is no uncommon occurrence for a case to turn very much upon the scientific and professional testimony, it is no less important that the experts should be wholly uncommitted, in opinion, than that the jurors should be so. It seems very obvious, therefore, that this class of witnesses should be selected by the Court, and that this should be done wholly independent of any nomination, recommendation, or interference of the parties, as much so, to all intents, as are the jurors. To this end, therefore, the compensation of scientific experts should be fixed by statute, or by the Court, and paid out of the public treasury, and either charged to the expense of the trial, as part of the costs of the cause, or not, as the Legislature should deem the wisest policy. The mere expense of the experts, when selected in this mode, would be as nothing, in comparison with the expense which now becomes unavoidable in consequence of the enormous consumption of time in most of the trials of this class, by the unnecessary multiplication of experts, with a view on either side to overcome the adverse testimony of that character."

The two objects to be secured by the proposed selection of medical and surgical experts by the Court, instead of *retaining* them by the respective parties according to the present practice, are the securing of competent experts, and the removing all temptations to partisanship and prejudice. And while it is believed that both of those ends might be attained by the method of selection recommended, it seems evident



that *impartiality* would certainly be secured—a consummation most desirable and beneficial.

The method of selection recommended by Dr. Wight seems likely to prove feasible, under the provisions of a suitable statute. And it appears to me that the practical details, of such choice, and the best method of examining the experts, might be safely entrusted to a convention of the Judges, who would promulgate suitable rules for the guidance of litigants and their counsel.

It may be objected that such a law would invade the rightful prerogative of litigants; but it would affect all parties alike. Expert testimony is designed to inform and educate the Court and jury in matters essential to the right administration of justice, and in which they are uninformed. Besides experts whose *opinions* are received in evidence upon scientific questions, are not practically amenable to the same measure of responsibility, nor can their testimony undergo the same scrutiny as ordinary witnesses, owing to the non-expert character of the Court and jury.

A statute calculated to elicit truth, and to facilitate the right adjudication of judicial questions, would seem to be in the direct line, and obvious furtherance of the most exalted purposes of an enlightened administration of justice.

It may be further objected, that the charges of chosen official experts would be likely to be exorbitant, but they could be regulated by law, besides it seems to me that the foremost members of the medical profession would gladly emerge from their present equivocal and unsatisfactory position with the Courts, and take an exalted and honored official *status*, even at the expense of diminished reward for their expert services.

The last suggestion of Dr. Wight to which I shall call attention, seems to be quite obscurely stated, at least to a non-expert intelligence, though perhaps clear to the mind of an alienist. But if I have correctly apprehended his meaning, he attempts to express his condemnation of the rule of law that declares a "knowledge of right and wrong" to be the test of responsibility, and the inconsistency of interposing that standard by the Court, while the alienist experts have informed the Court and jury—as the result of more modern and enlightened science—that such knowledge is not the test.

While, as a lawyer, I will not be expected to discuss the scientific question, but must leave that to the medical experts, yet permit me to call attention to the obvious absurdity of admitting alienists to instruct the Court and jury, as to the scientific test of responsibility, and then disregarding the instruction in obedience to a rule of law evolved from a defective philosophy of the mind years ago, and which is now generally discarded by scientists of the highest standing and attainments.

The rule under consideration seems to be based upon the idea that the *will* is exclusively under the control of the *intellect*, whereas the disturbance of the emotions and feelings are regarded of, at least, equal consequence to the exercise of the will, and there are criminal cases where the criminal act seems to have sprung entirely from such disturbance. In judging of responsibility, it is necessary to consider the mental condition as a whole. In Germany, the Criminal Code, the result of very careful discussion both by physicians and lawyers, provides "There is no criminal act when the actor, at the time of the offense, is in a state of unconsciousness or morbid disturbance of the mind, through which the free determination of his will is excluded."

The better science being well attested, no new statute would seem to be necessary to secure the logical result of its teachings, for the law is sufficiently flexible, and judicial learning and independence should be sufficiently liberalizing to meet the exigency.

In considering a paper so able and instructive, and a subject so difficult and yet so important, I have ventured to trespass upon the time and patience of the society, in citing, somewhat copiously, from able and well-known authors, who have illuminated the subject under consideration, lest it might be supposed that the society was urging an innovation upon established order officiously and without necessity.

The questions under discussion are so important, enter so largely into the administration of justice, and have so long engaged the interested attention of the public mind, and particularly of the judiciary, that no apology is necessary for their extended consideration.

It is to be hoped that their present revival will not be permitted to subside until it shall be consummated by a complete and practical reformation in the character and method of securing expert testimony, in consonance with the exalted purposes of judicial inquiry.

# INSANITY AS A DEFENSE FOR CRIME.

BY GEORGE B. CORKHILL, ESQ.,\*

United States Attorney for the District of Columbia.

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I think it proper to say that I am here to-night in obedience to a promise made to the President of your Association over a year ago, but which I am compelled to fulfill at a most inopportune moment. Owing to the fact that my official duties required all my time and attention, it has been almost impossible for me to prepare a paper upon any subject containing sufficient merit to justify its presentation to you. The subject I have chosen, "INSANITY AS A DEFENSE FOR CRIME," is one with which I am familiar, and to the investigation of which I have been compelled to give much time and labor, and can therefore reasonably hope to merit some attention to the views I shall express.

To define with accuracy and precision the true meaning of the word insanity is a most difficult task.

The ablest authors who have written upon the subject, the most learned physicians who have treated it, and the most eminent scientists, all differ as to the terms used to define it.

The more modern scientific researches have demonstrated, that the line between sanity and insanity is as marked and distinct as is the line between health and any of the diseases with which the human frame is afflicted—that is to say, that insanity is a disease acting upon the physical parts

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\* Read before the Medico-Legal Society of New York, May 2, 1883.

of the brain, producing the varied conditions and exhibitions of the mind so often seen.

Dr. Bucknill, an eminent authority both in this country and Europe, says in his Sugden Prize Essay, in answer to the question, "What is Insanity and Responsibility?"

"The difficulty of solving these questions has not only been humiliating to the proud intellect of man, but has been attended with great practical inconvenience and with no inconsiderable or unfrequent danger of the exercise of human justice being perverted from the strict line of rectitude; of its being forced to deviate on the one side towards a mischievous and sentimental sympathy for peculiarities and infirmities of temper, or on the other towards an inflexible administration of penal and vindictive reprisals.

"The difficulty inherent in the question appears to depend upon the impossibility of establishing a strict relation between qualities of which the one is infinitely fluctuating and variable, the other is fixed and definite.

"Insanity is a condition of the human mind ranging from the slightest aberration from positive health to the wildest incoherence of mania, or the lowest degradations of cretinism. Insanity is a term applied to conditions measurable by all the degrees included between these widely separated poles, and to all the variations which are capable of being produced by partial or total affection of the many faculties into which the mind can be analyzed."

Dr. Fordyce Barker, of New York, says, "Insanity is a disease characterized by perversion of the mental faculties, or of the emotions and instincts. I would add—perversion from the normal, natural action of the individual." And he continues, "I use the term disease with this meaning: that



it is a departure from a healthy condition of the organs or tissues of the body, or a departure from the functions of healthy performance of the duties, in that individual, of those organs." He says further, "In cases of insanity there is always found, either a change of substance, wrought by disease, or a change in the healthy performance of the functions and duties which belong to some part of the body."

Dr. John P. Gray, of New York, a well-known and trustworthy authority, says that: "Insanity is a disease of the brain, in which there is an association of mental disturbance, a change in the individual, a departure from himself, from his own ordinary standard of mental action, a change in his way of feeling, and thinking, and acting."

It will readily be seen that these definitions, which, in substance, are the accepted views of the leading scientific men both of this country and Europe, define insanity as a disease.

What has been termed moral insanity has no scientific recognition, and should never be countenanced in a court of justice. But I am not here to discuss what insanity is, except as it is incidental to my subject of its use as a defense or excuse for crime.

So common has the defense become that in almost every case of atrocious and brutal crime, it is presented. And it is remarkable that there is scarcely a criminal but can find facts, in his own life, of physical or mental disturbance, or in the lives of some of his blood relations, from which men of eminence or of scientific attainments readily demonstrate to juries that these facts, taken in connection with the atrocious and brutal character of the crime, indicate insanity.

And this practice has grown so rapidly, and has been so successful in shielding from punishment many of the vilest criminals who ever infested society, that it has become a matter of the gravest importance that some remedy should be secured, either by a modification of the laws of defense for crime or of punishment.

When a defendant charged with crime is placed upon trial, his plea of "not guilty" puts in issue almost every possible defense. The law presumes every man to be innocent and sane, unless evidence to the contrary is produced; and in its extreme liberality it says to the jury, that they are to consider all the evidence in the case, and if they entertain a reasonable doubt either as to the commission of the crime or as to the responsible condition of the mind of the accused at the time, he is entitled to the benefit of that doubt, and an acquittal.

It can readily be seen that shrewd counsel, backed by the opinion of expert witnesses, in connection with any very atrocious crime, can readily raise a doubt in the mind of an unprofessional jury as to whether a sane man would have committed such an act.

I prosecuted a case within the past month where a man had brutally murdered his wife, had cut off her head, and had inhumanly slashed her face and head and body with a razor; and yet for days his counsel earnestly labored to show that he was insane, the basis of their defence being that some sixteen years ago he had been struck by a policeman with his club; that it raised a lump the size of a hen's egg on his temple; that he was subject to dizziness and bleeding at the nose, and that he was unsociable. These facts taken in connection with this awful crime, it was asserted, demon-

strated insanity; and although the man had attended to his daily labor, collected his earnings, and supported his family, a large amount of testimony, including that of at least one eminent expert, was presented to prove the irresponsibility of the defendant for the crime. That the plea was not successful in this case is a matter of congratulation, but that it was urged, and gravely and ably maintained by persons of intelligence, at least demonstrates its dangerous character, for the criminal was as sane and rational as any man who ever committed crime.

The object of punishment in criminal cases, by hanging and by confinement in the penitentiary, is the protection of society, and the deterring of others from like offenses; and there is little, if any, reformatory character connected with it, and how to administer it properly, with a due regard to the rights of the individual citizen, and to the community at large, has been the subject of the most varied discussion by men of eminence, experience and ability from the very organization of society. A very large and eminently respectable class of persons do not believe in capital punishment. They look with horror upon the law which demands the execution of a human being as a penalty for crime.

Without entering into a discussion of the merits of the question, I do not believe a more efficacious and just and proper punishment, in every relation in which it can be considered, can be found than the prompt execution of a criminal, if found guilty of the crime which, under the law, merits that punishment.

The defense of insanity has become so common that it is not surprising that juries are beginning to look upon it with suspicion, and the public with dread.

For illustration, a man ascertains that a person has outraged his family, violated his confidence, and dishonored him in the dearest relations of life; he pursues and kills, and the jury are called upon to say that the man was laboring under temporary insanity, and not responsible to the law for his act, and ought, therefore, to be acquitted, and the prisoner returns to society, to his business, and to civil and political honors. Why would it not be more creditable to our juries, and more honorable to the administration of justice, to let the jury say by their verdict that the justification of the crime was in the character of the act which provoked it, and not encourage and countenance this plea by a verdict so contrary to their oaths and the law as would be an acquittal by reason of insanity. If they must apologize for their verdict, let it be the apology of open refusal to find a prisoner guilty under such serious provocation—a more manly course than to shield themselves behind a defense in which neither they nor the community which they represent believe.

I do not think that insanity should ever be allowed as a plea of defense for crime on the trial of the prisoner under the indictment; not that I go to the extent of some writer whose communication I read in one of the law journals, “that the violent and bloodthirsty members of society should be put out of the way of further outrage without reference to the motive which induced them to disregard the right of life and property; the laws of man should be administered in the same spirit as are administered the laws of nature—a shortsighted man who has miscalculated his distance in attempting to swim a river, drowns, not because his motive is malignant,

but because he has violated a law. Insanity, like blindness, or a 'wicked and abandoned heart,' is a defect of organization, and the highest triumph of human tribunals should be to administer to the survival of only the fittest."

It is, of course, shocking to the promptings of humanity to punish a man, unquestionably insane, who has no conception of his crime, nor realization of its punishment; but if that is his condition he should be placed where he can be treated with care and attention, but prevented from having the opportunity of committing other crimes.

I have now on my docket for trial a case against a man who committed a most causeless and vindictive murder. He had been in the city for some time, boarding at a private house; was the inventor of a burglar-alarm, which he was endeavoring to introduce. His defense is insanity, and the physician of the asylum at the capital, who visited him at the jail, tells me that he is a cunning, malignant, but unquestioned maniac; and I find, on examination, that he was discharged from an asylum for the insane some years ago, as entirely harmless. What is to be done with such a case? Shall the man be turned loose upon society again to commit other murders? For, if acquitted of this crime on the ground of insanity, what assurance can there be that in a month he may not be again discharged?

My candid opinion, resulting from a very large experience in the trial of these cases is, that when a prisoner proposes to defend his crime on the ground of insanity, a jury specially selected for their fitness should be chosen to try the special plea; and if the prisoner be found insane, then he should be confined in an insane prison for a time commensurate with the character of the crime; and if the ver-



dict of the jury be in favor of his sanity, then the plea should not be allowed upon the trial of the cause. I have not the time to elaborate my views upon this point, nor to combat many of the constitutional and other objections that might be urged against it, but some such proceeding will, in my judgment, more certainly secure a just and fair examination and determination of this difficult problem than any other way. So long as this plea continues to be used as it is now—as a mere subterfuge to secure the acquittal of criminals, it will receive, as it should, the condemnation of all who desire to see the law fairly and honestly executed.

It is not, I beg you to remember, a question whether the plea of insanity should be allowed as a defense for crime, but the devising of some means under the law by which its existence can be rationally and honestly determined.

It is the most astounding fact in the whole history of the administration of criminal jurisprudence, that within the past few years, nurtured by the vagaries and senseless theories of medical men on the subject, and supported by the testimony of so-called experts, almost every criminal, when arraigned, offers insanity as his defense, assured that he will have the assistance and support of eminent medical authors and experts. And, as a consequence, we have had just as many different kinds of insanity as we have had crimes. The murderer was afflicted with homicidal or paroxysmal insanity; the thief was a kleptomaniac; the incendiary was a pyromaniac; the drunkard was a dyspsomaniac; the burglar and the ravisher had emotional and temporary insanity; and these afflicted criminals were to be pitied rather than punished.

But there is a class well known and recognized in every

community, who by their erratic character, their vanity, their egotistical declarations, crowd themselves into every association and by their arrogant assumption become prominent. They are not always men who wear long hair, nor women who wear short hair. I know no peculiar trade-mark by which they can be at once detected, but they are everywhere. You have them in your society, unless the press misreports some of your discussions. They are doctors without patients, lawyers without clients, and ministers without parishes; without ever having done an honest day's toil, they crowd themselves into labor and trade organizations, and assume to be representative men; they are the most earnest in temperance and religious organizations; they clamor for position in every enterprise having for its object any public reformation; they denounce vice on every public occasion; they say long prayers and affect great piety and virtue, and yet they are the true representative traitors, murderers, thieves, ravishers, and scoundrels of communities, and when one of them commits a crime, the entire race of vagabonds join in the clamor for the exemption from punishment on the ground of insanity. There has been a word coined of late years to designate these people, and they are called "*cranks*." They figure largely in the list of criminals accused of all grades of crime, and it is to them belongs much of the disgrace brought upon the plea of insanity as a defense for crime; with them, judgment and execution should be swift, sure and certain, for the escape of one of these men encourages the entire class to go on committing crimes for like notoriety and like exemption. They well know they commit crime and deserve punishment, and when the knife of justice falls upon one of their number, it strikes them with horror;

but to every honest citizen it is a glad announcement that the law is supreme, and that its execution cannot be avoided by a miserable scoundrel asserting himself as a *crank*.

Nothing can be more slightly defined than the line of demarkation between sanity and insanity. Physicians and lawyers have vexed themselves with attempts at definition in a case where definition is impossible. As a writer has very aptly said, there has never yet been given to the world anything in the shape of a formula upon this subject, which may not be torn to shreds in five minutes by any ordinary logician. Make the definition too narrow, it becomes meaningless; make it too wide, the whole human race are involved in the drag-net. In strictness, we are all mad when we give way to passion, to prejudice, to vice, to vanity; but if all the passionate, prejudiced, vicious, and vain people in this world are to be locked up as lunatics, who is to keep the key of the asylum? As was very fairly observed by a learned Baron of the Exchequer, when he was strongly pressed by this argument, "If we are all mad, being all madmen, we must do the best we can under such untoward circumstances. There must be a kind of rough understanding as to the forms of lunacy which can't be tolerated. We will not interfere with the spendthrift who is flinging his patrimony away upon swindlers, harlots, and blacklegs, until he has denuded himself of his possessions and incurred debt. We have nothing to say to his brother madman, the miser, who pinches his belly to swell the balance at his banker's—being 73 years of age and without family—but if he refuse to pay taxes, society will not accept his monomania as pleadable in bar."

Society must be protected, human life must be safe, property must be secure, and the law must punish those who

violate the sacred rights of any citizen to life and property ; to do this with even justice it will not do to permit a criminal on account of the vagaries of an unbalanced intellect or moral nature, to escape punishment ; if the disease of insanity really exists, then let that question be determined, not that he may escape punishment, but that the punishment may be tempered in accordance with his physical and mental condition.

The subject of the best methods of determining in what causes and under what circumstances and in what manner insanity may be pleaded as a defense of crime is one deserving the careful attention of all. If what I have hastily said will attract your attention to the importance of the subject and lead you to its investigation, I shall have accomplished all that I could, under the circumstances, reasonably expect.

## EDITORIAL DEPARTMENT.

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### MALARIA AND LEGISLATION.

There is a prevalent opinion among laymen, and prevailing to some extent among medical men, that malaria has been somewhat "overworked;" that when we can't find the real cause, it is easy to cry "malaria" and prescribe a change of air.

However this may be, it is beyond dispute that some unseen thing or agency does cause disease, and a good deal of it, and that while it may not be growing in intensity or malignity, it is spreading into regions not heretofore infected—threatening to become universal. This has led to a great deal of inquiry and discussion of late years, as to the nature, cause and origin, of malaria.

In summing up all that has been said and written of late, it is curious to observe how little real progress has been made for more than half a century on this question. We hear so much about malaria now that we naturally conclude that it is in a great measure a new line of investigation. But not so. An old book, a very thorough book, "*Malaria: an Essay on the Production and Propagation of this Poison, and on the Nature and Localities of the Places by which it is Produced.*" By John McCulloch, M. D., F. R. S., Physician to His Royal Highness, Prince Leopold, of Saxe Coburg; 8vo., pp. 480. 1827," goes thoroughly into the whole subject indicated by the title, and leaves but little to be said.

From this work, and similar and additional facts collected by subsequent investigators, it may be concluded:

I. We do not know precisely what malaria is.

II. We cannot handle it, weigh it, or analyze it as we can visible or tangible substances.



III. We do not know its relations, if any, to microscopic, animal or vegetable life.

IV. We do not know with certainty the whole list of diseases caused by it.

But we do know :—

I. That there is a something we choose to call malaria.

II. That it is an invidious and powerful, though generally a slow poison.

III. That there are certain diseases it does cause, others which it probably causes; and that the debility it causes gives scope and opportunity for any disease caused by anything else. The *vis medicatrix nature* is diminished.

IV. We know that it arises from certain natural causes, by the uniform recurrence of certain maladies under such natural causes.

V. We know that it, or something very like it, exists to-day in localities where it did not exist before, and where such natural causes do not exist.

VI. We know that generally this can be traced to local causes, some act done, or something neglected to be done by man. We know this, because the removal of certain supposed causes or neglects has removed the malaria—that is, stopped the prevalence of the disease, which is the same thing.

The province of State Medicine is not quite well defined. But we know :—

I. That legislation is for the protection of the community, and individual members of the community.

II. That every life has a certain value—to put it on no higher basis—a certain money value to the community.

III. That a well man is worth more than a sick man.

IV. That some forms of sickness are contagious or infectious.

V. That all sickness and premature death are losses to the community as well as to individuals or families.

VI. That neglected ponds and swamps may and do injure others than their owners.

VII. That imperfect or dangerous drains, cesspools, and the contiguity of these to wells and cellars are not only dangerous, but very dangerous.

Hence may be inferred the relations of legislation to malaria. Not only may Government undertake operations that are too large for individual exertion, but it may justly exercise a sanitary inspection of premises, and *command and compel* the owner to remove dangers. This right exists when none but the owner and his family live on the premises. It is an imperative *duty* in the case of places where other people resort; schools, hotels, watering places, even the farmhouse that takes "summer boarders."

THE CHAIR OF MEDICAL JURISPRUDENCE IN THE UNIVERSITY OF  
ABERDEEN, SCOTLAND.

Dr. Ogston, Professor of Medical Jurisprudence in the University of Aberdeen, announced his intended resignation of the chair he has filled for the past forty-five years.

He is the author of a standard work on Medical Jurisprudence.

We learn from the *British Medical Journal* that there will be a sharp contest for this chair. Among the candidates are Dr. Simpson, Health Officer of Aberdeen; Dr. Angus Fraser; Dr. Frank Ogston, son of the Professor and for many years his assistant; Dr. Husband, of Edinburgh; Dr. Matthew Hay, and Mr. Aubrey Husband, M.B., at present Lecturer on Medical Jurisprudence at Edinburgh.

THE BROADMOOR CRIMINAL LUNATIC ASYLUM.

The Report of Dr. Orange, Medical Superintendent of this Asylum, furnishes important data.

Some 500 criminal lunatics are confined here, of which 220 are murderers. Dr. Orange makes some interesting observations on 21 cases of homicides committed in 1881, in respect to the neglect of society in properly committing

lunatics, liable to commit crime, before the acts are committed.

In these cases all of them had given unmistakable evidence of dangerous homicidal tendencies, before the act.

These views of Dr. Orange find conspicuous illustration in our country. If Guiteau, or the Frenchman, Dubourque, or some others were properly committed or placed under suitable restraint, innocent lives would not have been sacrificed.

One of the Judges of the Supreme Court of this city remarked recently to the writer, that an acknowledged lunatic, confessedly dangerous, was in the habit of attending at the Court House in this city, threatening the Judges with personal violence.

It seemed to be no one's especial duty to arrest and place him under proper restraint, and he was at large, frequently threatening the Courts, and may yet commit some overt act, before the authorities interfere.

Should it not be made the duty of some officer to apprehend all insane persons at large, who evince decided criminal tendencies, and have them placed under proper restraints, if on a careful examination they are found to be insane, with dangerous tendencies?

#### INSANITY : IS IT ON THE INCREASE COMPARED WITH THE INCREASE OF POPULATION.

There is a belief in the public mind that there was a decided increase, in this State, greatly out of proportion to the general increase of population.

*The American Journal of Insanity* (January, 1883), in alluding to this public impression says: "This belief we think to be contrary to the true facts of the case, and contrary to experience and statistical information."

That journal claims, that there were in the asylums and almshouses of the State on the 1st day of October, 1881, 10,073 insane persons; October 1, 1882, 10,706; an increase apparently of 633, or of 06.28 per cent. of the insane of the

State, but by analyzing the various statistics it is found that this apparent increase, if limited to cases of less than one year's duration, would be but 01.4 per cent., and perhaps less.

The yearly average percentage of increase of the population of the State from 1870 to 1880 was over 01.5 per cent., on the same authority.

That journal concludes by observing: "If, therefore, the increase in the number of acute cases, admitted to or under treatment in the asylums of the State is taken as a criterion, insanity by the development of new cases is not increasing in proportion to the increase of population. There is, however, an increase in excess of the increase of population. An increase due to accumulation in county asylums and poorhouses, and in the State asylums of a growing number of chronic cases. This is due to two causes: First, the commitment in direct violation of law of acute cases to county institutions, where without intelligent treatment they lapse into chronicity; and second, to the delay on the part of friends of the insane to place them under treatment, until their insanity is well established, and beyond relief."

The statistics for the year ending October 1, 1883, will throw light upon this important subject. It would be an agreeable discovery to become satisfied, by actual data, that the public impression was erroneous. We shall hope for more light upon the subject, to which we invite attention, and the inquiry should perhaps not be limited to one State, or one country.

The question, however, raised by the writer in the *American Journal of Insanity*, of the irregular commitments of chronic cases of insanity to county institutions in direct violation of law, is one that challenges public attention. This is a frightful evil, attended with deplorable consequences to the afflicted, and should be investigated, exposed, and its promoters punished.

However the fact may be in the State of New York, insan-



ity seems to be on the increase in England, especially among the poorer classes.

The last year's statistics show a decided increase among what may be called the *Pauper Lunatics in England*.

The *British Medical Journal*, of Oct. 28, 1882, makes the following interesting analysis of Report of the Local Government Board :

The increase in ten years was from 48,506, to 63,534, divided as follows: In County or Borough Asylums, 39,128; in Registered Hospitals or licensed houses, 1,458; in Workhouses, 16,811, and 6,127 are residing with relations or boarded out. These figures do not include 1,821 pauper lunatics chargeable to Counties and Boroughs, which would make the actual total 65,345 of the Insane Poor in all England.

*The report of the prefect of the Seine for the year 1882* shows a very alarming increase of insanity in the City of Paris.

The increase in the insane at the end of 1882, was from 946 at the beginning of the century to 8,260, showing an increase of ninefold in lunatics as against a threefold increase in population.

The statistics of the last census show that the ratio is different in different countries, but it will require the careful analysis of the statistics of the various States and countries made by the *American Journal of Insanity* to arrive at exact conclusions.

A writer (Dr. C. L. Dana) in the *American Psychological Journal* (April, 1883) under the title of "The Increase of Insanity in the United States," calls attention to the subject of the alleged disproportionate increase of insanity in the United States. He cites the statistics of the census to show that the total number of the insane in 1880 was 91,997, as against 37,432 in 1870, a ratio of one to every 543 of the population, or 1,834 per million, an apparent increase of over 100 per cent.

Dr. Dana concedes that the census estimates of 1870 were



60 or 70 per cent. too small—which is, to say the least, an enormously large concession—but claims that there can be no doubt of the fact that the aggregate number of the insane in the United States is much greater now, proportionately, than it was in 1870.

The subject is full of interest and will well repay study. It is engaging the attention of alienists everywhere.

#### • VENESECTION IN MELANCHOLIA.

Dr. Fordyce Barker cited a case from his own practice before the New York Medical and Surgical Society last year, in which a pronounced case of melancholia had been successfully treated by venesection, instantaneous and decided relief following the withdrawal of twenty ounces of blood. Similar favorable results by subsequent blood-lettings were obtained in later attacks of same case.

Dr. Post corroborated Dr. Barker's view, and cited an analagous case from his own practice.

#### DISCHARGE OF AN INSANE PERSON.

In the matter of the application for the discharge of Callahan, an alleged lunatic, Judge A. R. Lawrence, of the Supreme Court, said :

In this case I would gladly comply with the request of the petitioner's counsel, and place the young man in the charge of his parents, if I could consistently do so. But after reading the evidence, I do not feel that I should be warranted in adopting that course. The evidence of the experts is to the effect that although Henry Callahan is not now dangerous, he is subject to delusions, and that he may become violent. Under such circumstances duty to society seems to require that no risks should be run. Should Callahan become violent, and while at home inflict injury upon another, the Court could not justify itself by stating that the parents had become responsible for the harmless character of his acts. Several recent distressing cases impress me very strongly with the necessity of most carefully scrutinizing applications of this nature, and of the extreme propriety, in doubtful cases, of refusing to allow the supposed lunatic to be freed from restraint. The parents allege their ability to provide for their son. If it would be more agreeable to them to have him in any other institution, I am willing

that that should be done, but I cannot reach the conclusion on the evidence before me that I ought to take the responsibility of placing him where, if his malady should assume more dangerous features, he might do serious wrong to others.

The action of the Court was proper and commendable. If society should recognize that it was bound to place all lunatics under restraint who are liable to become dangerous, it would materially lessen crime. If Guiteau, the Frenchman who stabbed the woman on 14th Street, and other recognized lunatics, had been properly restrained, their crimes would have been avoided.

#### STATISTICS OF SUICIDE.

Dr. John G. Lee, of Philadelphia, has made a contribution to the Statistics of Suicide in that city, for the period of ten years from January 1, 1872, to January 1, 1883, in a paper giving as the total 636, or an average of 63.6 per annum. Hanging and shooting in Philadelphia seems to have been the most popular methods. More than two-thirds of the number were married, and only 57 were by drowning.

About one-fifth of the number only were women, and out of the whole number only 24 were under the age of 21 years.

The maximum number of men were between the ages of 30 and 50, and of women between 20 and 40. He finds no proportionate increase in the number of suicides to the increase of population, and shows as many cases in 1874 as in 1881, while the greatest number was in 1875. On the whole, the contribution is not as valuable as that contributed by Dr. John T. Nagle, of the suicides in New York City, during 11 years, ending December 31, 1881, (*Vol. VII. Public Health papers of the American Public Health Association*). Dr. Nagle shows sex, age, color, nativity, means used for self-destruction and season of the year when committed. He also compares the deaths by suicides in 247 American and foreign cities in the year 1880, from official sources, and gives the proportion of suicides to the population of New York

City from 1804 to 1880, inclusive. We should be glad to see Dr. Lee, Dr. Nagle, or some of the statistical compilers, prepare analytical studies from the Census of 1880 for the whole United States.

Dr. O'Dea, on his valuable work relied greatly for his statistics on the Census of 1870, and Mr. Clark Bell, in his recent paper read before the Medico-Legal Society last year, made only slight allusion to the last census, as it was not then accessible to students of this branch of science. The contribution of Dr. Lee is of local value in arriving at the causes and philosophy of suicides, to which Dr. J. J. O'Dea, of the Medico-Legal Society of New York, has given decidedly the most valuable contribution on this side the Atlantic.

#### LUNATICS AS WITNESSES.

In an opinion just published, the United States Supreme Court, in the case of *District of Columbia vs. Armes*, decided May, 1883, interprets the law governing the competency of persons affected with insanity to testify in legal proceedings. The question arose in the case of a contract surgeon of the United States Army, who sued the District of Columbia for injuries sustained by a fall on a defective sidewalk in Washington. The plaintiff was himself a witness on the trial, when it was objected that his mind was impaired in consequence of the injuries he had received. The judge refused to exclude his testimony, but instructed the jury that it was to be taken with some allowance.

The Supreme Court sustains this ruling and lays down the following general rule: "A lunatic or a person affected with insanity is admissible as a witness if he have sufficient understanding to apprehend the obligation of an oath and to be capable of giving a correct account of the matters which he has seen or heard in reference to the questions at issue; and whether he have that understanding is a question to be determined by the Court upon examination of the party himself

and any competent witnesses who can speak to the nature and extent of his insanity."

Mr. Justice Field in pronouncing the opinion of the Court, cites the case of the *Queen vs. Hill* (5th Cox, Criminal Cases, 259), decided in the Court of Criminal Appeals (England); where it was held that a lunatic with unmistakably insane delusions, but who understood the nature and obligations of an oath, was permitted to testify, as to transactions of which he was an eye witness.

Cases were cited in which it was claimed that a witness "non compos mentis" was incompetent, but the Judge then said, but the true question is, how far is he "non compos mentis"? Does the lunatic understand what he says? and does he understand the nature and obligation of an oath?

Mr. Justice Talfourd, in his concurring opinion, says: "Martin Luther believed that he had a personal conflict with the devil," and that "Dr. Johnson believed that he heard his mother speak to him after her death."

Lord Campbell is reported to have said (2 Denison and Pearce Crown Cases, 254), "that such a rule would have excluded the testimony of Socrates, for he had one spirit always prompting him."

#### EFFECT OF IMAGINATION CAUSING DEATH.

That imagination may prove fatal receives fresh proof from the case reported in the *Med. Press*, April 25, 1883, by Dr. C. R. Francis. The patient, awakened from his sleep by something creeping over his naked legs, immediately jumped to the conclusion that it was a cobra, went into a state of collapse, and died, though it was discovered, even before death, that the supposed cobra was a harmless lizard.

#### OUR SUCCESS.

We must ask pardon of such subscribers as are unable to obtain No. 1 of the Journal.



The demand was greater than we anticipated, and our edition was soon exhausted. We shall increase our edition with this number to meet the requirement.

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HON. LUTHER R. MARSH, in his recent address before the College of Physicians and Surgeons, to the Graduating Class, made the following beautiful allusion to the Science of Medical Jurisprudence.

"It is not wholly incongruous, as it may at first seem, that a lawyer should be invited to speak to the Medical and Surgical professions; for, to a certain extent, they are related pursuits. We need not trace back their philosophies far, without finding a relationship and unity, suggesting that they may have sprung from a common ancestry. Though seeming so different, they are yet closely allied. They find their point of contact—linked by a hyphen—in Medical-Jurisprudence. Nor can we easily tell which side of the hyphen is the more important. Yet it must be admitted that, to your side of it, united science is indebted for its best development. No lawyer's library, nor any doctor's library, is complete, which does not contain that work, which, beginning so small, has come to be so large—the admirable treatise of Doctor T. Romeyn Beck, the father of the science in America. Nor should his indebtedness to Doctor John B. Beck, of New York, his faithful brother, be forgotten.

That medical-jurisprudence should be placed on the best basis, has been made painfully conspicuous in a late case of national importance. Indeed, it is a question worthy of solemn consideration, whether it would not be better to bring the experience and practical knowledge of a board of medico-legal constitution to pass upon all cases of alleged insanity. A large and prosperous association in our city attests the interest felt in this joint study, where members of the three



professions mingle in a common cause, and whose growing library already surprises us by its variety and extent. Certainly, your side of the hyphen is the most interesting in study. As the grandson of one doctor, and the nephew of another, I used, in youth, to range at large through their well-filled shelves, far more fascinated by them than by the abstruse studies of the law—preferring, greatly, the *Zoonomia* of Erasmus Darwin to the abstractions of Blackstone, and the *Physiology* of Richerand to the subtleties of Coke. But there is one difference in our practice which may be noted; for, it is said that the lawyers take their unsuccessful cases *up*, and the doctors take theirs—*down*.

PRACTICAL INSTRUCTIONS TO THE POLICE FOR THE CARE OF THE  
INJURED OR WOUNDED.

Dr. J. WILLIAM WHITE, of the medical staff of the University of Pennsylvania, has delivered a series of important lectures before the police force of Philadelphia on the suggestion of Mayor King. The result seems to have been the imparting of a considerable amount of practical instruction to the police, and the consequent saving of human life in many cases through the intelligent application of the directions given in the lectures. They were illustrated by reference to anatomical charts and practically by manipulations of a member of the police force who personated the supposed sufferer.

The police were instructed practically what to do in case persons were injured and how to do it. We give his directions.

HOW TO TREAT THE HANGED.—In case of accidental or suicidal hanging: The policemen were directed first to cut the noose from within outward, lest the knife injure or kill the individual. Then the frothy mucus is to be wiped out of and from around the mouth and nostrils with a handkerchief wrapped around a finger. Then set up the breathing

movements, which the lecturer fully described. Do not lose time in waiting for the doctor to arrive, and above all do not be guilty of the absurd ignorance of supposing you cannot cut down the dying man until the coroner arrives.

**SUFFOCATION.**—From poisonous gases under different circumstances was next considered, and advice upon the subject of resuscitating a drowned man brought the lecture to a close. As this is the season for drownings, his directions may be of interest. He said that it was well to remember that a total submersion of more than two minutes is usually followed by death, the apparent exceptions being were cases where the body was not covered completely with water for more than two minutes. If the skin has become wrinkled and grayish, the hands clenched, the eyes partly opened but no dilation of the pupils, the mouth filled with mucus, it is too late to save life. If the skin be normal and the body be warm, or if there is any pulse at all, try to resuscitate. Don't roll an unconscious person upon a barrel, a course often taken with the best intention and the worst results. Do not carry him away anywhere, but begin on the spot. First clean the mouth and nose of mucus, stand astride of the patient, draw the tongue forward so that it will not choke the air passages, turn him on his face, put your hands under his hips, raise the lower part of the body and let the water run out. You should clear the mouth and nose in thirty seconds. Lay something under the back so as to throw out the chest, letting the head fall back with the chin turned up. Take the arms near the elbows and lift them straight up until the forearms meet above the head. Then put them down again, pressing on the lower ribs to complete the act of respiration for the patient. Repeat this process several times, about fifteen times in a minute, not faster, as that is the rate of natural respiration. He had known a patient saved after eight hours artificial respiration. This process should not be discontinued at once, even when the patient begins to breathe for himself, as he might have strength to draw two or three breaths, but not more.

To keep warmth in his body meanwhile, he might be covered with blankets. When able to swallow he might be stimulated with liquor or coffee, a little being given at a time, and the spoon put far enough down into his mouth to insure the liquid running down the throat. All these motions were demonstrated on the subject.

Dr. White, in his third lecture, showed how to treat sprains, dislocations and fractures, and what not to do; how to bandage, make a splint and to make and use a stretcher. This lecture concluded with the means of distinguishing disease, or injury to the brain from drunkenness—a very important lesson for policemen—and the treatment of sunstroke and exhaustion from heat, the audience being warned that what would cure in exhaustion would kill in sunstroke, and the reverse.

The next lecture instructed them how to treat incised or gun-shot wounds; how to make compresses and tourniquets, and where to put them on. Advice was given upon the treatment of poisoned wounds, especially those made by the teeth of dogs known or supposed to be mad.

This movement of the Mayor of Philadelphia and Dr White might well be followed in other cities. The Police of Philadelphia are certainly better fitted for the discharge of their duties, and we should be glad to see it followed in New York, Boston, Chicago, St. Louis and the principal cities.

Mayors Edson and Low should consider its advisability for New York and Brooklyn.

#### DAMAGES FOR DEFECTIVE DRAINAGE.

Mr. Commissioner Kerr's decision in the case of *Cook vs. Elvin*, given on the 7th of May in the City of London Court, is one of very considerable importance to landlords and tenants. It distinctly affirms the principles that landlords are legally responsible for the ill effects arising out of defective drainage.

The plaintiff, a builder and contractor, sued the defendant, a widow, for the sum of £4 16s. 6d., said to be due on account of rent. The defendant brought forward a counter-claim for £10, basing the claim on two points—1st, for breach of contract, by which she agreed to pay an increased rental of £4 per year on condition that the house was made habitable; 2d, for illness and loss sustained through the bad state of the drains. The Commissioner decided in favor of Mrs. Elvin in both cases, granting costs on the higher scale. He stated that he would have awarded a higher sum than the £10 had he been asked, because no one could calculate the injury to health at the time, and in the future, from living in an unsanitary house. He further remarked that it was high time that landlords were taught that property has its duties as well as its rights.

#### THE INSANITY OF EPILEPSY.

The contribution of Dr. George F. Shrady, editor of the *Medical Record*, upon this subject is a valuable acquisition to the current literature of the time on a very interesting topic. The case cited on masked epilepsy, given by Jules Falret (*Archives-Gen. de Medicine*) is of deep interest and full of instruction, as also that of the assassin Thouviot, cited by Leseque, and followed by what was styled the “delirium of impulse.”

The case cited by Prof. Ball, of Paris (*Folie Epileptique*), is in many ways remarkable. Dr. Shrady claims, that there is a general tendency in epileptic neurosis towards mental degradation, amnesia and dementia, and that on the score of hereditary epilepsy in the parent, threatens insane neurosis in the child, while insanity in the parent had a tendency to transmit epilepsy to the offspring. He cites Seguin and Jackson in proof of the observation that autopsies of epileptics have revealed grave and in some cases gross lesions of the cerebral hemisphere.—(*Medical Record*, July 7, 1883.)



## SERIES 3, MEDICO-LEGAL PAPERS.

The following gentlemen have subscribed for Series 3 of Medico-Legal Papers. Muslin, \$3.50. Paper, \$2.50.

	Muslin.		Muslin.
Clark Bell,	10 copies.	Dr. W. A. Hammond,	5 copies.
Jacob Shrady,	2 "	G. W. C. Clark,	1 "
Wm. Shrady,	2 "	Dr. Stephen Smith,	1 "
R. S. Guernsey,	3 "	Dr. W. F. Holcombe,	1 "
A. G. Hull,	2 "	E. N. Dickerson,	1 "
David Dudley Field,	1 "	H. F. Averill,	1 "
Jas. J. O. Dea,	1 "	G. P. Hawes,	1 "
Dr. J. G. Johnson,	2 "	Prof. De Chaille,	1 "
Dr. C. A. Leale,	2 "	Horace Barnard,	1 "
Jacob F. Miller,	1 "	B. S. Willis,	2 "
D. Clark Briggs,	1 "	W. J. Mann,	1 "
E. G. Davis,	1 "	Simon Sultan,	1 "
Dr. Wm. M. McLaury,	1 "	D McAdam,	1 "
D. C. Calvin,	1 "	Dr. Fordyce Barker,	1 "
D. S. Riddle,	1 "	Dr. F. R. Sturgis,	1 "
Dr. J. C. Thomas,	2 "	Dr. Frauenstein,	1 "
S. N. Leo, M. D.,	1 "	Dr. Wooster Beach,	1 "
F. A. Lyons,	1 "	Dr. R. L. Parsons,	1 "
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Dr. L. A. Sayre,	1 "	Dr. Jos. A. Stiles,	1 "
L. P. Holme,	2 "	Judge W. H. Arnoux,	1 "
Dr. J. B. Lewis,	1 "	Clarence Brown,	1 "
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C. P. Bull,	1 copy.	Dr. C. L. Dana,	1 copy.
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Dr. T. A. McBride,	1 "		

Persons desiring it sent will forward names and addresses to the President or Secretary.



## FACETIÆ.

AMONG the published toasts at the June banquet of the Kentucky Bar Association were the following :

"The Kentucky lawyer at large." "The real trouble between the plaintiff and defendant." "The nature and uses of the fee." "What will probably become of the lawyers."

AN attorney being asked at a dinner to give as a toast, the person whom he considered the best friend of the profession, immediately responded "The man who makes his own will."

## THE DOCTOR.

He warns us in eating, he warns us in drinking,  
 He warns us in reading and writing and thinking;  
 He warns us in football, footrace, eight-oar "stroking,"  
 He warns us in dancing and cigarette smoking;  
 He warns us in taking champagne and canoeing;  
 He warns us in wearing red socks and shampooing;  
 He warns us—of drains—in our snug country quarters;  
 He warns us—of fever—in mineral waters;  
 He warns us—in everything mortal may mention,  
     But—what gives rise  
     To but little surprise—  
 Nobody pays him the slightest attention!

—*London Punch.*

AN illustration of stinginess is cited by an Arkansas editor, who knows a man that talks through his nose in order to save wear and tear on his false teeth.

"HAVE you ever tried the faith cure?" asked a long-haired, sallow stranger, addressing a gentleman in a street car. "I have," was the reply. "Do you believe in it?" "I do." "May I ask, then, of what you were cured?" "Certainly; I was cured of my faith."

A STUDENT was being examined in anatomy, but failed to answer a very simple question. In an instant all his years of study become a blank. "John," exclaimed the professor to his servant, "go to the stable and bring me some hay for this ——." "Bring enough for *two*," was the reply, before the enraged teacher could name the animal with long ears. The subsequent examination was severe, but it demonstrated that the student needed no hay.

SOUNDS FROM THE CONSULTING-ROOM.—"How long will it take you to cure me, doctor?" "Well, Mr. Blank, I think you can get back to your desk at the bank in about a month, but you will have to remain under treatment for several years." "But you mistake; I am not Mr. Blank, the banker, but Mr. Blank, the letter-carrier." "Oh, that alters the case. There is nothing the matter with you but a little biliousness. You will be well in a month!"

WASTE NOTHING.—A Spanish magistrate lately issued this proclamation: "All articles in the shape of wines, groceries and provisions, which, upon examination and analysis, are proved to be injurious to health, will be confiscated forthwith and distributed to the different charitable institutions."

—*National Druggist Journal.*

## CHEMISTRY AND TOXICOLOGY.

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### ARSENIC IN A HUMAN BODY.

Prof. R. H. Chittenden, of New Haven, contributes a very valuable paper, to the April number of the *American Chemical Journal*, on "The Distribution of Arsenic in a Human Body"—based upon a critical examination of nearly one-half of the entire muscle and bony tissue of the body of Jennie Cramer, disinterred six months after burial, the object being to ascertain the actual amount of arsenic in the whole body, and to gather all the facts possible regarding the relative distribution of the poison in the cadavre.

The inquiries also were "In what form was the poison taken? How long had the arsenic been in the body before death? Was the deceased habituated to the use of arsenic?"

The method of analysis consisted in oxidizing a weighed amount of the sampled organic matter with nitric and sulphuric acids at elevated temperatures, the arsenic being ultimately obtained and weighed in the metallic state.

From the amount of arsenic found in the portion examined, the contents of the entire organ or portion of tissue was calculated. The result, when possible, was verified by a duplicate analysis, while in several instances the contents of the entire tissue was calculated from the average of two or more determinations. Such of the internal organs as had been placed in alcohol were sampled for analysis by being cut into fine pieces and then ground to a thick paste with the alcohol in a mortar. The sampling of the muscle and bony tissue was effected by the use of pure nitric acid, with the aid of a gentle heat, by means of which the muscle and bones were entirely dissolved. The method of sampling tissue or large

organs in this manner, in toxical investigations, particularly for arsenic, yielded excellent results, since the confirmation of duplicated analyses so obtainable greatly diminished the possibility of error, and thus adds greater weight to the chemical testimony.

The quantitative results are given with great exactness and in minute detail. The Summary is as follows :

“Summary of the Examination of Muscle and Bony Tissue.

	Total weight.	Total $\text{As}_2\text{O}_3$ .
Left arm . . . . .	2 lbs. $11\frac{1}{4}$ oz.	.094 grain.
Right leg, except thigh bone	10            4	.118
Thigh bone . . . . .	$7\frac{1}{2}$	...
Transverse section . . . .	8 $15\frac{1}{2}$	.186
Muscle from breast . . . .	1 $2\frac{1}{4}$	.098
Muscle from back . . . .	1            6	.356
	<hr/>	<hr/>
	22 lbs. $46\frac{1}{2}$ oz.	.852 grain.
	24 $14\frac{1}{2}$	= 398.5 oz.

The entire body, aside from the internal organs, weighed at the time of disinterment 57 pounds = 912 oz. Thus the proportion,

$$398.5 : 912 :: .852 : x = 1.9498 \text{ grains } \text{As}_2\text{O}_3,$$

must give the total amount of arsenious oxide contained in the entire muscle and bony tissue, provided the portions analyzed represent average samples. Naturally care must be taken to avoid an undue proportion of muscle, since this is invariably richer in arsenic than the bones. In the present instance the only question would be in regard to the bones of the trunk and skull, since one of each pair of limbs was analyzed. The transverse section, however, with the heavy pelvic bones and a portion of the spinal column would certainly contain its due proportion of the bones of the trunk. From our work it would appear then that the amount of arsenic present in the body at the time of death, calculated as arsenious oxide, was 3.1192 grains. Of this amount 1.007 grain was actually weighed, while nearly

half of the total amount was separated and examined."

The examination also showed unevenness in the distribution of the arsenic, from none or very little in the bones, up to a quarter of a grain in the muscle of the back, and a greater amount in the great vessels and organs of the body, which Prof. Chittenden claims is certainly indicative that the arsenic was taken but a short time before death.

The Professor claims that in chronic poisoning or when the arsenic has been in the body considerable time before death, that the kidneys indicate it clearly, while in the case under examination the amount of arsenic in both kidneys was only .029 of a grain, while there was nearly three times as much in the tongue and throat, which conclusively shows that this was not such a case, but that the poison must have been taken shortly before death.

We quote the conclusions of his valuable paper :

"Again it has been recently asserted, without foundation, that the presence or absence of arsenic in the brain is an index as to whether the poison was introduced into the body before or after death. It is undoubtedly true that the finding of arsenic in the brain is an indication amounting almost to proof that the poison was not *post mortem*, since by no ordinary process of diffusion could the arsenic pass such a distance from the alimentary tract, especially in view of the rapid fixation of the poison by conversion into the insoluble sulphide. But on the other hand, in cases of poisoning with arsenious oxide, the absence of arsenic in detectable quantities in the brain in nowise proves, in the writer's opinion, that the poison was not taken prior to death.

"E. Ludwig, of Vienna, from his experience in the examination of human beings poisoned with arsenious oxide, both in acute and chronic cases, as well as from his experiments on dogs, decides that with this form of arsenic the bones and brain contain but a mere trace of the poison, while the liver, as a rule, contains the most arsenic. This view is substantiated by the results from the analysis of the body of Mary



Stannard, Mrs. Riddle, and our experiments on animals; for even where large quantities of arsenious oxide have been taken during a period of many days, the amount found in the brain is generally unweighable.

"This view being correct, the amount of arsenic found in the brain in the present case admits of but one interpretation. Only one-third of the brain was delivered to the writer for analysis, but this amount contained .025 grain of arsenic, being in the proportion of 0.34 grain to 1 lb. of brain and alcohol. The only theory then consistent with this result and with the facts at our disposal is that the arsenic was taken in a form readily soluble and diffusible. Again, the large amount of arsenic found in the muscle tissue of the back is not otherwise easily accounted for."

The case of Jennie Cramer has given rise to much comment, and the public mind has been left in great doubt concerning it. The body was found floating in the shallow water on a sandy beach. It bore no evidences of having been long in the water. Dr. T. M. Prudden made the autopsy, but failed to reveal the cause of death. The body was found August 6th, 1881, the autopsy made August 8th, 1881. The trial was had in the summer of 1882. Owing to the fact that no stenographer is furnished in the Criminal Courts of Connecticut, no reliable copy of the chemical or medical testimony can be obtained, and the newspaper reports cannot be relied upon as accurate; but the chemical analysis of the body, thus carefully made, is valuable in a medico-legal sense, and it is hoped that Professor Chittenden, with his careful knowledge of this case, will prepare a paper on its medico-legal relations, to be read before the Medico-Legal Society of New York, which he has partially promised to do during the coming winter.

#### VOLUMETRIC ANALYSIS AND FAT-TESTING.

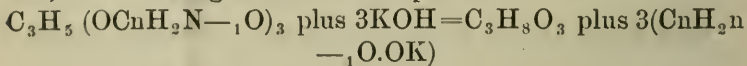
Karl Zulkowsky and Max Groger have thoroughly tested Haussmann's volumetric method of analyzing fats, and have

at the same time so improved and simplified the same that in their opinion the examination of a mixture of neutral fats and fat acids, is easier than an examination of a mixture of caustic soda and sodium carbonate. Haussmann's method is based upon the fact that an alcoholic solution of a fat acid is immediately saponified on the addition of an alcoholic solution of caustic potash, whereas the saponification of a neutral fat can only be effected by protracted boiling. When, therefore, an alcoholic solution of fat acids and neutral fats, to which some phenolphthaleine has been added, is titrated with caustic potash, the red color disappears as long as any fat acid is present, and the solution does not attain a permanently red color until all the fat acids are saponified. When the red color has set in an excess of caustic potash is added, and the whole boiled for half an hour to saponify all the neutral fats, and re-titrated, whereby the amount of caustic potash required to effect the saponification of the neutral fats is ascertained, and the quantity of caustic potash required for each titration represents the relative proportion of fat acids and neutral fats in the mixture operated on.

Not only is the method useful in ascertaining the relative proportions of fat acids and neutral fats in a given mixture, but it also serves for testing fats generally, as, for instance :

1. For determining the equivalent of a fat, *i. e.*, the proportion saponifiable by an equivalent of caustic potash, or one litre of a normal solution of potash. The result obtained might, under circumstances, serve as a criterion as to the nature of the fat. The equivalent would, no doubt, in the case of butter-testing, indicate whether the butter was genuine or artificial.

2. For determining the amount of glycerine (theoretical yield) in fats in the most simple manner imaginable. When a neutral fat, or a mixture of a number of such fats is saponified, the following reaction takes place :



According to the above equation, every litre of normal potash solution splits up one-third equivalent of glycerine—i. e., 30.667 g. one c. c. of normal potash is therefore equivalent to 0.030667 g. of glycerine.

3. The amount of glycerine a fat would probably yield having been ascertained by the above titration, and provided the fat is pure and free from moisture, the theoretical yield of fat acids would be easily calculated.—*Berichte der Deutschen Chemischen Gesellschaft*, May 21, 1883.

#### ANTIDOTE FOR RATTLESNAKE POISON.

In Mexico, says Dr. Croft, in *Chemical News*, in common use is a strong solution of iodine in potassium iodide. The author has tested some of the poison itself with this solution, and finds that a light brown amorphous precipitate is formed, the insolubility of which explains the beneficial action of the antidote. When the iodine cannot be readily obtained, a solution of potassium iodide, to which a few drops of ferric chloride has been added, can perhaps be used as an antidote to snake poison. It is a very convenient test for alkaloids.

#### TEST FOR WINES.

M. Pradines has recently published a test for wines, by which wines may be examined for their purity. He proposes with this test to answer three questions: First, is the wine natural; secondly, is it diluted; and lastly, has no product of the grape been used in its preparation? The reagent used consists of pure ammonia saturated with rectified ether, which is then filtered and kept in well stoppered flasks protected from the light. To make the test, pour some water in a test tube, add with a pipette or burette about fifty drops of the wine to be tested, shake the mixture, allow five or six drops of the reagent (Diano Pradines) to run into the

mixture, and shake again. If the wine is good in quality a beautiful green coloration appears along the line of contact between the reagent and the mixture. If the mixture takes a pale green coloration the wine has been diluted with water, and the amount of dilution is approximately measured by the varying paleness of the tint produced. If this pale green coloration becomes rapidly clouded and obscured the wine has been diluted with water and colored with some coloring agent. If the mixture gives no color or takes a grayish red tint, amaranthine or brick color with no trace of green, the wine is compounded. In this last case the colorations vary infinitely, modified by the coloring matters used in the wine's fabrication.

#### CHEMISTS.

The Science of Chemistry in its Medico-Legal relation, we regard as of the very highest importance. Chemists as such are eligible to membership in the Medico-Legal Society, whether physicians or not.

All Chemists interested in Medico-Legal studies are invited to contribute to this Journal, and to unite with the Medico-Legal Society, without reference to residence.

## TRANSACTIONS OF SOCIETIES.

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### THE MEDICO-LEGAL SOCIETY.

April 4th, 1833, Stated Meeting, Mott Memorial Hall.—The President, Mr. Clark Bell, in the chair. Contributions to the library were received from Gen'l Geo. W. Palmer, the United States Commissioner of Public Instruction, Dr. E. H. M. Sell, Mr. Clark Bell, and Appleton Morgan, Esq.

The minutes of March meeting were read and approved.

The paper of the evening was read by Dr. Henry Mott, Jr., entitled "A Recent Case of Poisoning by Nitrate of Silver."

The report of the Committee on Medical Experts and Expert Testimony was read by E. C. McIntyre, Chairman, and ordered placed on file. Supplementary reports were made by Dr. E. C. Mann and B. A. Willis, Esq.

An extended discussion occurred upon the report, participated in by several members.

The Executive Committee, to whom had been referred the motion made by Hon. Freeman J. Fithian, at the annual meeting of December, 1882, relating to suitable provisions for conducting the annual elections, submitted the following amendment to § 5 of the By-Laws and recommended its adoption, viz: That Section 1, Article V, of the By-Laws be hereby amended so as to read as follows:

SECTION 1. The annual meeting for the election officers shall be held in December in each year, nominations having been made therefor at the preceding stated meeting as follows:

"The Assistant Secretary shall, at least two weeks before the annual meeting, forward by mail to every member entitled to vote and not in arrears for dues, a membership list



with a list of nominees and a ticket printed in blank for the various offices to be filled, also a blank envelope addressed to the Assistant Secretary.

Members entitled to vote shall fill up the blank ballot and return the same to the Assistant Secretary by mail or otherwise under seal.

At the annual meeting the Assistant Secretary shall deliver the said envelopes to three tellers to be named by the President, who shall proceed at once in the presence of the Society, to count the votes of the said ballots and announce the result to the society. Each election list and envelope sent shall be separately numbered and a duplicate list kept by the Assistant Secretary.

In case no choice is made by the said vote so counted and announced by the tellers for any office, the same shall be filled by a vote of the society by ballot.

Any member shall be entitled to receive his election list, and vote, at any time before the polls are actually closed, on payment of all arrears of dues, if in good standing."

The society voted unanimously to consider its adoption at the present meeting, and the report and recommendation of the Executive Committee were unanimously adopted.

It was moved that the amendment to the By-Laws as recommended by the Executive Committee be adopted as an amendment to the By-Laws.

The question was raised as to the propriety of considering the amendment now, or laying it over to a future meeting. The Chair held that it being upon the report of a committee named at the December meeting, the society could by unanimous action act at this meeting. On unanimous motion it was so ordered.

The amendment was unanimously adopted, and the By-Laws declared amended.

Mr. Jacob Shrady gave notice that he would move an amendment to the By-Laws at a future meeting, to increase the annual dues \$1.00 per annum, to enable the society to furnish a

copy of the *Medico-Legal Journal* to every member who paid his dues, and that the sense of the society be obtained, by mailing a request to every member asking for an expression as to whether he favored or opposed the amendment increasing dues for the purpose. The Secretary was, on motion, directed to forward same to members with blanks for response.

On motion it was resolved that the Chair appoint a select committee to whom was referred the paper of Dr. Wight, Hon. D. C. Calvin, and the report of the Select Committee, with instructions to prepare and submit a bill to the society for its consideration, proposing changes deemed necessary in existing laws regarding the evidence of medical expert testimony.

The Chair asked for time to name that committee—granted.

The Executive Committee reported that the subject of a *Medico-Legal Journal*, referred to it by the Society, had been considered, and the recommendations of the Inaugural approved; that the committee had authorized the officers to subscribe for 100 copies of the journal for two years, at \$3.00 per annum, payable semi-annually in advance, which copies should be placed on the exchange list of this Society, on condition that members of the Society should have the right to subscribe for the journal at half price, viz., \$1.50 per annum, payable in advance, if subscriptions were made at the commencement of the year and paid for in advance.

The action of the Executive Committee was, on motion, unanimously approved.

The Secretary was called upon to state whether all of Volume 2 of *Medico-Legal* papers had been distributed and sent to the exchanges of the Society. He reported that only part had been sent. On motion, the Secretary was directed to forthwith send out by mail or otherwise all the remaining volumes in Society's possession of Series 2 of the *Medico-Legal* papers to the remaining names on the exchange list, as furnished by the Committee on Publication.

The Society adjourned.

L. P. HOLME, *Secretary*.

AT A MEETING OF THE MEDICO-LEGAL SOCIETY HELD MAY 2, 1883, at Mott Memorial Hall, the President, Clark Bell, in the Chair, and a large attendance; the following gentlemen were elected members of the Society:

Joseph Newberger, Esq., Charles H. Hotchkiss, Esq., Hon. John J. Adams, John M. Carnochan, M. D.

A large contribution was announced to the Library by Dr. E. H. M. Sell, of some hundred pamphlets.

The paper of the evening was read by Hon. George B. Corkhill, United States District Attorney for the District of Columbia, entitled "Insanity as a Defense for Crime." The discussion of the paper was interesting.

Prof. R. O. Doremus being called by the Chair, briefly endorsed the main and leading views of the speaker but desired to hear from the bar.

Dr. A. E. MacDonald concurred in the views of the paper, and claimed that it fairly expressed the view of the medical profession and the public.

Mr. Corkhill explained to the Chair that his engagements would deprive him of the pleasure of remaining until the end of the session, and regretted that he was obliged to withdraw before the paper was discussed.

Judge D. C. Calvin said: "I am not able to agree with the opinions expressed, or spirit manifested by the learned and distinguished gentleman in his paper just read, though I was not present in time to hear the whole of it, and may have failed fully to apprehend his views.

"Dr. Wight, in his paper read before the Society, upon Experts and Testimony, states that there are physicians who have become so accustomed to diseased minds, that they have lost the capacity to appreciate a sane mind.

"The thought struck me while listening to this paper, that the author had been so long accustomed to prosecute criminals that he had come to believe that every man indicted for, or accused of crime, was guilty, and should be punished whether the evidence was sufficient to justify it or not, men

are so liable unconsciously to be affected by their calling and associations.

"I do not appreciate the propriety of any gentleman, no matter from what portion of the country he comes, or how distinguished he may think he is, or may be, telling an intelligent, cultivated society like this, that there are *cranks* in it who have not capacity to understand, or will not appreciate such a paper as his.

"I ask in all seriousness, is there a person within the sound of my voice, who would execute a person undoubtedly insane because of the enormity of the imputed acts? If there is, I submit that *he* should be regarded as a *crank*, and expelled from the society.

"There is a wise and humane presumption among persons who have not been District Attorneys so long as to warp their sense of justice and propriety, that a man is to be regarded *innocent* until proven guilty; and I think that is also a presumption of law never questioned.

"I disagree with the paper of the evening because its spirit and aim seems calculated to reverse this presumption, and to discredit a proper and lawful defense.

"Nor do I think that the gentleman has done justice to the medical profession, when he supposes that its members are ever ready to lend themselves to aid corrupt devices, to assist the escape of criminals under a sham defense.

"I had occasion recently, to say that the derogatory remarks of the judiciary concerning the medical profession—because when called as experts upon different sides, especially upon questions of sanity, they swore directly opposite to each other—came with ill-grace when we considered that a majority of the cases appealed to the General Term were *reversed*, as were a considerable proportion of those that went to the *Court of Appeals* also reversed; and many affirmed by a divided court without any imputation upon the courts of ignorance or corruption.

"That these differences were the natural result of man's



fallible judgment, aggravated in the case of expert witnesses by our system of retainer.

"I desire to protest against this effort to condemn a lawful and proper defense to alleged crime before trial."

Dr. Chadsey concurred in the speaker's view, that the question of insanity should be tried by itself and not be suffered to be an issue on the trial of the indictment.

Mr. Edwin G. Davis conceded that the criticism of Mr. Corkhill regarding cranks in the community, (and if the reported proceedings in the public press were correct,) in the Medico-Legal Society, was to some extent correct at one time, but stated that the parties referred to, had recently resigned from this society, and were no longer members.

Mr. R. B. Kimball defended the views of the speaker in the paper of the evening, and replied briefly to the views of Judge Calvin.

Dr. R. J. O'Sullivan said: "The time is coming when the names of so-called experts should be stricken from the list of the medical societies. The bad odor attached to expert testimony, and the plea of insanity is working great injury. I remember a case in the northern part of this State; where a crime had been committed by a man undoubtedly insane, but his lawyer refused to advance that plea and the unfortunate prisoner is to-day in States prison. If that case should ever come before the General Term I am sure it will be reversed. We should take the stand that no insane person should be committed."

Dr. R. L. Parsons differed with the author of the paper in several important respects, but agreed in the suggestion of trying the insanity prior to the trial of the indictment itself.

Dr. Edward C. Mann being called by the Chair, said: "I regret not having heard the paper of the evening, and am therefore unable to criticise it intelligently. I have listened with much pleasure to the remarks of Judge Calvin, we should identify with the existence of *disease*, every deviation from the healthy mental standard which indicates the neces-



sity for medical treatment or advice. Ignorance of the nature of insanity has caused many lunatics to be executed for this offense. Even among criminals the number of physical diseases are less than the *psychical*. The cause of death of most of them, are in the brain and centric nervous system. It is not properly understood, especially by the legal profession, that congenital and acquired mental conditions are often met with in practice, the principal feature consisting in emotional irregularities rather than delusion or hallucination. The patient may talk quite rationally, but his acts and conduct show insanity, and dangerous acts may be committed. Congenital moral imbecility is a true insanity, although recent events show that it is not popularly so regarded. There is a proportionate irresponsibility in such cases. It is congenital moral insanity. These cases *as much need guidance, restraint and treatment, as do the furiously insane*. They are cases of reasoning mania, as Esquirol long ago showed, with a *first period* of change of habits and disposition; a *second stage* of perverted affections; and a *third and last stage* of maniacal excitement or else Dementia. The patient is always ready to justify his sentiments and conduct. There is no marked defect of the reasoning faculties. The old test of the ability to distinguish between right and wrong is one hundred years behind the times. The Lord Chief Justice of England and Lord Moncrief of Scotland have unqualifiedly condemned it. If a man by reason of disease of the brain affecting the mind has an inability to control his action he is insane, and Judge Calvin is entitled to great credit for his broad and liberal ideas on this subject as expressed before this Society. We are *not* in the twilight as regards our knowledge of mental diseases, as has been asserted here to-night. We have a *Positive Psychology*, founded on broad scientific principles and owing to the researches and works of Ray, Kirkbride, King, and Earle, at home; Fisher, Winslow, Bucknill, Tuce, and Blackford, in England; Krafft-Ebing, in Germany; Voison and Baillarger, in France, and

many more, we are to-day enjoying the broad sunlight of knowledge on this subject. The trouble is, that many prefer to entertain their preconceived theories rather than accept the verdict of modern science respecting the subject of insanity and its varied manifestations. The modern treatment of insanity has thrown light on the dark places of mental philosophy and of civil and criminal jurisprudence. This is the result of profound study of organic conditions in connection with abnormal mental phenomena. Such study has shown that a sentiment or a propensity is as likely to be affected by disease as the intellect. If there are those who refuse to see the difference between moral or emotional insanity proper, and moral depravity, it is rather owing to their lack of opportunity for proper observation than to any obscurity in the subject itself. Every alienist of experience knows that it is no uncommon thing to find ideas which are the result of insanity associated with mental qualities and operations indicative of a rational mind. In the interests of truth and justice, let the honest results of scientific investigation have fair, dispassionate and intelligent judgment. Insanity then, may be confined to the moral or affective forms, being manifested in the conduct and not by intellectual lesion, and there are no objections to this form of insanity which in the light of modern science are tenable.

Mr. D. S. Riddle gave a review of the English law in the olden time upon the question.

The President, Mr. Clark Bell, in the absence of the speaker, closed the debate. He made a short analysis of the paper itself and claimed that members had perhaps misunderstood the views of the speaker. He regarded the paper as an able defense of the existing system of trials in Insanity cases, and a severe criticism upon the improper defenses sometimes interposed and the scandals consequent thereon.

The speaker disavowed the doctrine of executing confessedly insane persons, as the Chair understood the remarks.

The laws of New York make ample provision for the trial of the question of Insanity by either the people or the prisoner, before the indictment was tried, and he cited the case of Geo. Francis Train, where the District Attorney sought to establish the insanity of the accused before the trial on the indictment and before a special jury called for that issue.

The Chair, while not familiar with the laws of the District of Columbia, believed that provisions existed there, under which the sanity or insanity of Guiteau could have been tried before the indictment was tried, but called attention to the fact that no effort of this kind was made by either the prosecution or defense. The Chair regretted that Mr. Corkhill had been called away, as the Society would have been glad to have listened to him in closing the debate.

The Select Committee on Experts and Expert Testimony was announced by the Chair, as the former committee re-appointed, adding the names of Dr. T. H. Kellogg and Hon. Geo. H. Yeaman.

Mr. McIntyre, Chairman of that Committee, stated that the Committee would not report till late this season.

Society adjourned.

L. P. HOLME, *Secretary*.

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MASS. MEDICO-LEGAL SOCIETY.

Rooms of the Boston Medical Library Association, }  
June 12, 1883. }

The sixth annual meeting was called to order at 11.15 o'clock A.M., by President Presbrey.

Twenty-one members were present. Records of the last meeting were read and approved.

The report of the Executive Board, showing the work of medical examiners throughout the State (who are members of this Society) for the past year, was read by the Corresponding Secretary, and accepted. Med. Exr. Pinkham, in his report, referred to the large amount of work involved in

using the present form of blank for report of cases, and made some suggestions for a blank form which would in a great measure obviate this labor.

Voted, on motion of Med. Exr. Hurd, that the Executive Board be authorized to prepare blanks for the use of members, as proposed by the Corr. Sec.

Voted, on motion of Med. Exr. Tower, that the Corr. Sec. be instructed to request members to report cases of special medico-legal interest for publication.

Upon recommendation of the Executive Board, Med. Exr. F. K. Paddock, of Pittsfield, was unanimously elected a member of the Society.

The Treasurer made his report, which was accepted.

Voted, on motion of Med. Exr. Pinkham, that a committee of three be appointed by the Chair to retire and bring in a list of nominations for officers for the ensuing year.

The committee having retired, submitted the following list, which was unanimously adopted by the Society.

President, S. D. Presbrey, M. D., Taunton.

Vice-President, F. Winsor, M. D., Winchester.

Corr. Sec., J. Y. Pinkham, M. D., Lynn.

Rec. Sec., W. H. Taylor, M. D., New Bedford.

Treasurer, C. C. Tower, M. D., So. Weymouth.

The President appointed as Standing Committee for the ensuing year, Med. Exrs. F. W. Draper, Boston; Y. G. Hurd, Ipswich; J. C. Gleason, of Rockland.

Medical Examiner Howe, of Lawrence, read a paper entitled "A Strange Case"; being the report of a suicide, attended with unusual circumstances. The paper was listened to with much interest, and was received with applause by the Society.

Med. Exr. Pinkham, of Lynn, read a paper on "Infanticide, with report of a case of Infanticide by Drowning." The remarks of the essayist commanded the close attention of the members, and were received with applause.

Both papers elicited interesting discussion.

Voted to adjourn.

W. H. TAYLOR, *Recording Secretary.*



## THE NEUROLOGICAL SOCIETY OF NEW YORK.

At the January, 1883, meeting of this Society, Dr. Leonard Weber read a paper entitled "A Case of Syphiloma of the right vertebral, with thrombosis of the basillar artery"—which was discussed by Dr. John A. Wyeth and others.

Dr. Wm. A. Hammond read a paper on "Allochira: Its Nature and Seat."

At the February 6, 1883, meeting, Dr. S. N. Leo read a paper entitled "Presentation of patients trephined for Epilepsy," which was discussed by Drs. Leale, Gray, Putzel, Graemme M. Hammond and Prof. W. J. Morton.

At the March 6, 1883, meeting, Dr. W. A. Hammond read a paper on "Katatonia." and Dr. E. C. Spitzka upon "A Classification of Insanity."

Nominations of officers were made for the annual meeting.

At the Annual Meeting, April 3, 1883, the only business transacted was the election of officers.

Prof. W. J. Morton was elected President; Drs. L. Weber and W. H. Farrington, Vice-Presidents; Drs. Josiah Roberts and Mary Putnam Jacobi for Recording and Corresponding Secretaries.

## MEDICO-PSYCHOLOGICAL SOCIETY OF PARIS (FRENCH).

Session of Dec. 14, 1882—Presidency of M. DALLY.

The annual election of officers for the ensuing year was held with the following result:

President, M. Motet; Vice-President, M. Foville; Secretary-General, M. Ritti; Secretaries Annual, MM. Charpentier and Garnier; Treasurer, M. A. Voisin. MM. Luys and Dally were added to the Bureau that named the Council. Committee on Publication, MM. Dagonet, Dumesnil and Falret.



The President announced that the contest for the gold medal among the contestants of the Asylums of the Seine had been decided, and the medal awarded to M. MARCEL BRIAND, Ancient Interne of Saint Anne and a member of the Society.

A discussion followed upon the subject of the creation of special Asylums for persons called Criminal lunatics.

M. FOVILLE.—The friends and the opponents of this measure are not quite ready to be heard, and the discussion is perhaps premature.

The opponents of the measure claim that if insane persons who have committed crimes are not dangerous, and have no delusions which threaten the commission of future offences, they should not be placed with dangerous lunatics.

On the other hand, there exist dangerous lunatics who have not committed offences, but who are constantly liable to do so, and form a dangerous element in the ordinary asylums, where they are now confined.

The question is more imminent, by reason of the Commission recently formed to reform the law of 1838, which has decided that dangerous lunatics shall be treated as criminals, but there are practical difficulties, you will not be slow to perceive in the way of the enforcement of the new law.

If the scientific question is important, the financial side is none the less so.

They have established the principle that the new asylum shall be at the charge of the State, so that the Department that sends its Insane there, will have nothing to pay.†

The temptation therefore will be very great to send as large a number as possible. If in a Commune a lunatic is found, there will always be some one, who will be influenced by economy to have him sent to the Criminal Asylum as dangerous, if possible. In a little time this Asylum will be filled with those who ought not in fact to be there, who are dangerous only by courtesy—inoffensive criminals.

If, to obviate this abuse, they leave to the cost of the De-

partments those lunatics sent to this Asylum, the tendency will be, not to send cases there that are dangerous and should go, and the temptation would be to call their criminal lunatics harmless, in order to keep them in their Department.

In either case, the Asylum of the State would not be what is desired.

How shall we solve the difficulty, and not leave the Departments to decide who should be placed in this Asylum and who in the ordinary asylums? The English furnish us an example.—It is “the good pleasure of the Queen” which comes in in every case of commitment or discharge at Broadmoor. Why not institute a similar plan in France? Why not leave it for the Minister of the Interior to decide what shall be done with the dangerous lunatic? They place the commitment and discharge at the discretion of the Minister, by his Council. This plan would remedy the objections and secure the proper disposition of the Insane, leaving to the Physician to simply give his advice as to whether the person was insane or not. This Tribunal, being impersonal, could have no motive but the good of the State and the welfare of the Insane.

M. MOTET.—I thank M. Foville for his remarks, which show clearly the necessity of such an Asylum for the State, but I do not think it should be left to a Physician alone to discharge a criminal lunatic, who might commit other crimes. Without detracting from the responsibility of the Physician it should be divided with the Magistrate and the Government.

I should favor a Commission to be named by the Minister of the Interior, who should decide each case, the Physician should be treated as the natural intermediary between the lunatic and the Commission, and furnish all necessary information regarding the case.

At the session of the Parliamentary Committee on the reform of the law of 1838 it was thought that an interval of one year would be too long, and six months was fixed, which is a wise measure.

I think the safest Commission for such cases would be—the Physician of the Asylum, one of the Inspectors-General, the Judge of the Court where the Asylum is located, a Lawyer, to be elected by the Bar, and a Notary. Thus composed a Commission would be preferable to the Council proposed by M. Foville.

M. BLANCHE.—I think M. Motet does not attach enough importance to the responsibility of the Physician, who is alone competent to say whether the person is insane or not. A Commission such as M. Motet suggests would not give sufficient guaranties to the public for its protection. The Judicial authorities should consult Medical men only, and our experience shows that it is not quite safe to rely on the Courts on scientific questions which can only be solved by physicians. Who is the expert who can alone decide whether the person is insane or not? The Physician! Why, then, submit such questions to the decision of men just as honorable but wholly incompetent in medical knowledge to decide?

M. MOTET.—I have never complained of a large number of physicians; but it is necessary to consult public opinion and to furnish guarantees to individual liberty, and this is why I suggest a Commission selected from different classes.

Nothing will prevent such a Commission from designating one or more experts to examine the case.

The Chief of the Asylum who has the patient in charge will always be heard, and well-known alienists will of course be called and listened to.

How could it be otherwise? Such a Commission is preferable to the Chamber of Ministers, which would be a secret power.

M. BLANCHE.—Do you not think that it would be better not to have the Asylum Physician, who has the patient in charge, decide on the case?

Consider his situation in coming face to face with dangerous lunatics with lucid intervals, who are exasperated by his presence and threaten him.

M. FOVILLE.—M. Motet thinks that the Council Chamber constitutes a secret power, which cannot enter into relation with the patient.

It seems that at Paris these things are not managed as in the provinces, where the patient at least is not always brought before the magistrate. When the Commission sits at Paris to act on cases from the country, they can easily send the Chief Physician to examine the case and advise. As now arranged he is obliged to report to the nearest tribunal.

The Council Chamber has already intervened in certain cases, which is no innovation, as it is already in our law. It is already the function of the Department to make the existing procedure operative.

M. CHARPENTIER. inquired for what reason would the decree of the Council Chamber be made?

M. FOVILLE.—The law is this now—it is this which gives it force.

M. BILLOD.—How would you meet the following difficulty:

A homicide lunatic recovers his reason and claims his discharge, but the Chief Physician is not able to reply to the administrative authorities that after he is restored to liberty he will not repeat the offence?

M. BLANCHE.—It is to surmount this difficulty that the English have invented “the good pleasure of the Queen.”

M. MOTET.—We aim at the same result as our neighbors when we copy their system. The Minister of the Interior decides after having consulted the Grand Commission. M. Foville has not considered the difficulties of displacement; the Inspector General who should be a party of right, the Physician of the Asylum will alone be displaced, and we will find always in the place of the other members, the Judge, the Advocate, and the Notary.

M. FOVILLE.—We find ourselves face to face with the difficulty suggested by M. Billod, whose scruples I comprehend. For my own part, when thus consulted by a patient, I ad-



wise him to write to the Procureur de la Republique. The tribunal takes charge of the affair, renders its decision, and I am relieved of responsibility.

M. FOVILLE cited the case of Martin, a lunatic who killed an old man under a delusion, and who recovered and demanded his freedom. The physician stated to the Prefect that Martin had recovered, but he would not say that the hallucinations might not again reappear, and Martin commit another crime in consequence.

The Prefect was embarrassed and appealed to the Minister, who delegated M. Foville to examine the subject. "He offers no trace of delirium or hallucination, he behaves himself properly at the house where he has absolute liberty. 'I have been insane before,' said he, 'it is possible, but to-day I am restored and wish to again take my place in society,' and such is his actual state." What is to be done in such a case?

M. BLANCHE recalled the affair of Sandon. All the alienists had considered him very dangerous, and the only object of his frenzy was Billaut; when he was dead, they thought there was nothing to fear and Sandon was set at liberty despite the reports.

After a little he attempted to murder M. Rouher. He was confined and had an epileptic attack. He died later from cerebral apoplexy on his way to the Palace of Justice, where he went to make a complaint against his new persecutors; and at the autopsy, the brain showed enormous lesions. I reply to M. Foville that the affair of Sandon furnishes a valuable example. Sandon was one who believed himself the victim of persecution, and whose vengeance was never satisfied, and who had always within himself the elements of a delirious impulse.

M. PIGOT.—The cases of Sandon and Martin do not, as it seems to me, resemble each other. The delirium of one rested on nothing; Martin, on the other hand, seems to have been really the victim of violence on the part of Pere Michel.



M. FOVILLE.—This last point was not made clear by the Instruction.

[Archives de Neurologie, Vol. V, 1883, Numero 14. Mars, p. 250.]

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SIXTEENTH MEETING OF THE SOCIETY OF ALIENISTS OF LOWER SAXONY AND WESTPHALIA. HELD AT HANOVER MAY 1, 1882.

Presidency of Dr. SNELL.

DR. SNELL opened the session by reading a paper entitled "REPORT OF A CASE OF PARALYTICAL DEMENTIA WITH SYPHILIS."

The work will be published in extenso, and also a careful analysis of it made.

The following discussion ensued upon the paper.

M. WAHRENDORF stated that among certain cases of general paralysis he had also very frequently observed syphilis preceding the mental attack.

He thought it was quite safe to affirm that syphilitic affection caused mental disturbance in more than a majority of cases.

MM. HUNDOEGGER and SCHMALFUSS stated that they had not been able in their experience to observe this result in so large a proportion of cases.

M. GEMPT thought that in all his observation of men, he had encountered more syphilitics, in general paralysis, than in all other forms of dementia.

M. HUNDOEGGER spoke upon the latent effect of syphilis. He reported the case of a man who had syphilis twenty-five years before the birth of his children, who were born with the infection and died with cerebral syphilis. In the interim he had not to his knowledge any reason to suspect a new infection.

M. SCHMALFUSS narrated the case of a syphilitic with gen-

eral paralysis, in which the cerebral malady had steadily but surely progressed after the disappearance of all the usual indications of the original syphilis.

A discussion then followed upon the reports of some cases of general paralysis, caused by alcoholic excesses.

Concerning which :

M. GEMPT stated, that facts which he had carefully observed had led him to the conclusion that general paralysis caused by excessive use of alcoholic stimulants differed radically from ordinary general paralysis.

He had observed that the former was frequently accompanied by paralytical phenomena, accompanied by delirious ideas, with exaggerations of the personality when the ordinary paralytical symptoms did not progress as usual, and would frequently improve, after which the dementia would become more acute and chronic.

M. DIECKMAN then spoke upon the question as to What should be Done with Criminal Lunatics who had Recovered their Reason?

What instructions should be given to the Directors of Asylums, in regard to lunatics who had recovered, who before their admission to the Asylum had committed murder during the existence of their insanity?

He cited the case of a lunatic confined at the Asylum at Osnabruck.

During the summer of 1881 a Journalist became insane and heard a voice which directed him to slay the first infant which came into his presence.

To obey this hallucination he committed a murder in open day. When he arrived at the asylum he was the victim of violent agitation, and so violent was he to the attendants who removed him that he dangerously wounded one of the guards, necessitating the amputation of a finger.

But a calm followed, and his reason was restored. He was apparently well, except that some time in January, 1882, he had a feeling of oppression, painful about the heart.

The Commune demanded his discharge as no longer necessary to be confined. The Director of the Asylum consulted the Judicial authority, who, after two special reports made on the case, consented to his liberation on the condition that he be placed under the charge of a competent man as guardian. Upon this the superior administrative authority, represented by the Director of the District, decided that in case of a recurrence of the attack he should be returned to the Asylum. This was what was done in a recent case.

M. SNELL strongly favored the greatest prudence in similar cases, without wishing to apply the English law, which attributes the discharge as a right by the Grace of the Queen, and thus also condemns the lunatic to perpetual confinement in an asylum, it should be, in his judgment, rather our duty to hold the lunatic upon guard, and under advice and observation. That in his judgment the recovery of such cases was very rare. He had never seen but a single case. It was that of a melancholic, who having slain his own child, recovered. Still they would not give him his liberty. He improved and was apparently perfectly restored, even after many years of observation. Still he was not permitted to return to his family, but was placed under observation among strangers. After many years have elapsed, he seems to be perfectly restored to his reason.

M. BURCHARD in closing the discussion, alluded to the discussion of this question in the Medico-Psychological Society of Paris.

M. WAHRENDORF introduced the subject "of the actual state of lunatics placed in charge of the families at Ilten." The author desired to add a few words to his last communication. The project which he had conceived and treated, is now nearly ready for development. The number of psychopathes confined among the families to-day was thirty-two. The progress was slow, and it was the intention so far as possible, to choose those lunatics who could contribute to the success of the effort, and to select such families as would de-

vote their time to the treatment, the observation and welfare of the patients, and who should in a measure utilize their assistance.

The results already obtained were very satisfactory. The reports made by the lunatics, and the families in whose care they were, leave nothing to be desired. The nutrition of the patients is excellent, as is also the clothing and cleanliness, while the good order and propriety is perfect.

A single exception has occurred, and this only served to create a profound and favorable impression. The beneficent family feeling is everywhere manifested among the insane patients. They take admirably to the family life with which they quickly identify themselves, and take pleasure in the labors assigned them, and with favorable results towards their recovery. None among them have manifested any desire to return to the asylum.

M. WAHRENDORF is more than ever decided to persevere in his attempt. He calls the attention of the President to the opinion given by Dr. Robertson in his discourse at the opening of the Section on Psychiatrie at the *London Congress*, when he said "The treatment of the insane is completely established in *Ecosse*, and at this time more than one hundred are receiving the benefits of this system."

Such are the advantages in the appreciation of the English savants who lived in the hope of its realization there, and who believed that certain classes of lunatics would be thus cared for and benefited. The practice and experience of Dr. Wahrendorf seemed to leave no room to doubt the truth of this assertion.

#### Discussion:

M. SNELL confirmed the truth of the favorable results announced by the speaker, Dr. Wahrendorf. He was firmly convinced for his own part of the advantages offered at *Ilten* for the reception of this class of lunatics in families.

He had received an excellent impression, and whoever observes the lunatic identified with his keeper, as one of the



family in which he lives, and in a word is one of the family. He hoped soon to see the example imitated throughout Germany and among other countries.

The Assembly decided that the next session would be in *Hanover*, on May 1, 1883. The session closed.

(Allg. Zeitschr. f. Psych. u. Psch. Gerichtl., XXXIX; 2 & 3).

#### THE MEDICO-PSYCHOLOGICAL ASSOCIATION (ENGLISH).

The usual Quarterly Meeting of the Medico-Psychological Association was held on Wednesday evening, 21st February, 1883, at Bethlem Hospital, Dr. Hack Tuke in the Chair. There were also present:—Drs. J. Adam, J. O. Adams, H. Ashwell, C. Clapham, J. E. M. Finch, H. Gramshaw, C. K. Hitchcock, Victor Horsely, P. Horrocks, W. R. Huggard, O. Jepsen, J. B. Lawford, H. C. Major, W. J. Mickle, A. W. F. Mickle, G. Mickley, J. H. Paul, J. A. P. Price, G. N. Pitt, H. Rayner, G. H. Savage, W. J. Seward, H. Sainsbury, D. G. Thomson, C. M. Tuke, E. S. Willett, W. Wood, R. Wood.

The following gentlemen were elected members of the Association, viz:—

Dr. J. A. Mac Munn, 110 Newtownard Road, Belfast.

W. Banks, M.B., The Friends Retreat, York.

A. W. T. F. Mickle, M.B., and C.M. Edin., Kirklington, Ripon.

W. Murdoch, M.B., C.M., Kent County Asylum, Barming Heath.

D. Walsh, M.B., C.M., Kent County Asylum, Barming Heath.

F. J. R. Russell, L.K.Q.C.P., 48 Lupus Street, W.

Dr. Tuke having vacated the Chair, it was occupied by Dr. Wood, who called upon him to read a paper "On the Mental Condition in Hypnotism." (See Original Articles.)

At the conclusion of the paper, Dr. Tuke remarked that they were very fortunate in having Dr. Wood now in the chair, as many years ago that gentleman paid considerable attention to hypnotism—in the time of Dr. Elliotson, when it bore the name of mesmerism.



DR. WOOD said that many years ago he was clinical clerk to Dr. Elliotson, when the subject of mesmerism was brought up, and it became his duty to observe the practical operation of it, and to see a good many very remarkable cases. The word "hypnotism" had not been used then. As a consequence of what was at that time observed, a leading surgeon at Manchester, Mr. Braid, investigated the subject, and was the first who proposed to adopt that designation. He (Dr. Wood) went to Manchester to see his process, which consisted in fastening a cork on the forehead, or holding a bright object in front of it, and requiring the person to look up continually at it till he was hypnotised. This, undoubtedly, did produce a very remarkable condition, which was perfectly genuine. His (Dr. Wood's) observation on that process led him to confirm what Dr. Tuke said as to its nature and effects. It seemed to him that some portion of the brain was exhausted, and that the consequence of that exhaustion was the disturbance of the due balance between the two portions of the brain, resulting in those peculiar symptoms noticed in hysterical cases. The resulting condition, as far as he saw it, did not go to anything like the extent which it did in what was usually called mesmerism. The same principle, however, was involved—the exhaustion, disturbing the balance of the mind. The personal influence certainly had a great deal to do with the matter; and, if rightly applied, was very important. Personal influence was also one of the greatest aids they could possibly have in the management of the insane. There was, it must be remembered, another side to the question. If they really were able to produce an abnormal condition, which for the time so closely resembled insanity, did they not run some risk of establishing a condition which they might not be entirely able to control, and a risk, moreover, that the repetition of that condition so produced might lead to the establishment of a permanently morbid state? The question, therefore, should be well considered as to how far they should advocate the use of hypnotism as a remedy; although, certainly, as applied to insane persons, it was not open to the same objection which might exist in the case of sane persons. They could hardly substitute anything worse than the condition existing in insane persons, so that if hypnotism did give them the means of substituting a new condition, one would be inclined to risk it. In that sense, at any rate, the subject seemed to come fairly within the province of the Medico-Psychological Association.

DR. SAVAGE said it was as well for each of them to say in a few words what they had thought on the subject. There were very interesting points about the personality of the mesmerised or hypnotised. How rarely they met any one who willingly owned to being mesmerised. At present one might almost as soon belong to the Salvation Army, or the Blue Ribbon Army, as own this. Were the people who were most readily hypnotised of a weaker mental character than those not so easily hypnotised? He, for one, would distinctly say no. It was simply an accident that certain persons were in the hypnotising relationship to certain others—that there was an influence exer-

cised by one person over another—just as one man might have an influence over a dog which another might not have. Therefore the hypnotic relationship was not to be considered as one of weakness. A person might be hypnotised without being a fool. It was a pity, then, that there should be that kind of dread of the thing. One was constantly struck with the effect of attention. A person was thinking of something else. His hand would be shot off. He does not feel it. A person having a sudden shock at a full meal might afterwards vomit an undigested meal. He would prefer to regard the condition of hypnotism as one of inhibition of attention rather than exhaustion. At their recent experiments at Bethlem he himself had tried to be hypnotised, but without success. He longed to know what it was like. Certainly he exhausted his senses as far as possible, but all in vain. He believed rather in the inhibition of the mind—the diversion of the mental force—rather than in its simple exhaustion. They were, doubtless, in the face of a new science, and could not explain it fully yet. Years and years ago, it was said that the savage explains, and the wise man investigates. All they had hitherto done was to investigate, until some scientific charlatan would arise and would explain too much. He thought it was possible they might not hear much more of hypnotism in the sense of finding a satisfactory explanation for some twenty years. He believed they were not yet in the position to explain these things, and he regretted that they had not had in the experiments made at Bethlem some one whom they knew, fall under the hypnotic influence, so that they might have seen what honest hypnotism really was. The unfortunate part of the thing was that everything was satisfactory on the evening referred to, except the people who fell under the influence—they were outsiders. He quite believed they were honest people, but the fact that the hypnotist succeeded on that occasion upon outsiders, and did not succeed in hypnotising those who were there, was a misfortune. He merely said it was a pity that they could not always get cases such as they wanted, and such as Dr. Tuke had succeeded in obtaining information from as to their own feelings when hypnotised. Perhaps when the science had been more carefully investigated, they would be able to show that certain persons would affect certain others. A point of great importance was whether the physical state of the hypnotised or hypnotiser affects the power of the influence. A woman A, subject to nerve storms could influence a person B when she was in health. Could she do that when she was suffering from illness? In cases of thought-reading he had heard remarks such as this :—“I cannot influence so-and-so when I have one of my sick headaches. I have tried to do so, but I could not.” In another case he had reason to believe that a certain lady when she was menstruating could not exercise the same influence which she could at another time. That repetition led to the facility with which these experiments could be made, he had seen over and over again. Then there was the medico-legal aspect of the subject. Supposing that hypnotism should become a widely-spread thing, it seemed to him there was a danger of its being made use of for improper purposes.

As an instrument, for instance, for the fabrication of wills. As far as they knew it at present it seemed open to such abuses, but when they knew more about it, they might, perhaps, smile at what they had thought before they understood it better.

Dr. HACK TUKE, in reply, said that there was very considerable force in what Dr. Wood had said with regard to the risks incurred in hypnotising. He had known neurotic cases where it was obvious that frequent repetition was very undesirable. He thought that Dr. Savage was correct in what he said as to the cases which might be subject to hypnotism. It was not necessarily any sign of a weak, nervous, or mental organization; and he might recall the fact that Mr. Hansen said that he found the best rowers and athletes at the Universities the most subject to his process. Then Dr. Savage had said that he inclined to think that it was not explained by simple exhaustion. The position which Dr. Savage took really amounted to very much the same thing, and was in accordance with Laycock and Hughlings Jackson. What Dr. Jackson said, "A diversion of the force" was similar to the position described by Dr. Jackson. The fact that the higher centres were in abeyance must, he thought, be admitted, and this was a very important point for consideration in regard to explaining the phenomena. Dr. Savage's remarks as to "outsiders" were much to the point, and he wished that on the evening the experiments took place they had had a myograph and other instruments which would have enabled them to determine several doubtful points. As regards the physical state affecting the influence, there was no question at all. Hansen himself connected his loss of influence, when it occurred, with the loss of vital power—what he would call magnetic force power—when he was "below par." The case of thought-reading was rather different. In the case Dr. Savage referred to it was not, he thought, that the lady was trying to influence another person, but she was trying herself to read his thoughts. In reference to the medico-legal aspect of hypnotism, there was the recent case in Paris of a young man who was taken up on the charge of an outrage upon public decency. He was sentenced to some imprisonment, but the judgment was reversed on appeal, in consequence of M. Mesnet and M. Motet coming forward and giving evidence that the man was a somnambulist—in fact, spontaneously hypnotised. They did more; they offered to induce the same condition in the prisoner as at the time of the alleged misdemeanor, and the President of the Court permitted them to do so. The experiment succeeded, and the Court was convinced the man was not responsible.

Dr. SAVAGE read a Paper "On the Marriage of Neurotic Subjects." (See Original Articles.)

Dr. MICKLE said that he should be personally disposed, under such circumstances, to restrict marriage more than the author of the paper. The marriage was so clearly productive of misery and woe to the offspring, that although the contracting parties might be quite ready to run the risk, they had hardly the right to entail the suffering upon their progeny. A very im-



portant point was that if a neurotic person married, the choice of the mate might be judiciously determined by the temperament of the patient. In neurotic persons they had a diathesis, and he did not think they should choose a diathesis which would intensify the other; but a person of the lymphatic temperament would probably be the best person for the patient to consort with.

Dr. WOOD said that when their advice was asked upon the question of the marriage of neurotic subjects a good many of them would be naturally disposed to suggest the advice given by "Punch," and say "Don't!" but it would be scarcely doing justice to society if they allowed the fear of a very possible danger to cause as much misery, perhaps, by disappointment, as would be likely to occur from the development of disease in the progeny. It was a peculiarity of man's nature that he did not shrink from danger. The schoolboy did not neglect his games because they were attended by a certain amount of danger; and although in the point under consideration there was, undoubtedly, a serious danger of what *might* occur, yet on the other hand there was a danger which was apt to be overlooked which might arise from the disappointment of those who had made up their minds that they ought to marry. Moreover, in the majority of cases, although their advice was asked, it was very rarely taken. Of course they would all say that a patient who was at the time insane would be very likely to have a child who would become insane; but if the causes of the man's insanity had entirely ceased he would be as unlikely to have a recurrence of his malady as if he had not had it at all. A great many of those who have been insane have been so from causes which have been temporary, and which have been entirely removed, and may never occur again. If the children born were born at a period subsequent to the disease of their progenitor he did not see why the insanity should be perpetuated. They were all familiar with the expression that genius was closely allied to madness. To a certain extent that might be true, but there was a marked difference, and it did not follow that one should degenerate into the other. A person of very distinguished intelligence might come through flights of genius to an eccentricity nearly approaching insanity, but it would be wrong to the State to say that such a person should not marry. He might marry a wife who had no taint whatever, and the admixture might produce a child of fine mental power. He thought that if they took pains to ascertain the whole of the circumstances of the case, and if they were satisfied that there had been a sufficient interval, and that the history did not point to a continuous hereditary taint, there was no reason why marriage should be forbidden. It all depended upon how far the recovery had been confirmed, and how long it had continued.

Dr. HACK TUBE said that one point of importance, which had been somewhat overlooked, was whether the wife had passed the child-bearing period. There were many cases where one could fall in with the proposed marriage of those who had been insane when there was no chance or probability of a family. Unfortunately, however, whatever they might decide on the ques-

tion of marriages they would not, he feared, prevent the increase of families in the already married in consequence of the return home of the recovered patients and those out on trial ; and it was a very melancholy aspect of the question that in proportion to the greater number of recoveries obtained, so there was the probability of a greater number of cases of insanity through hereditary transmission. He had been consulted as to whether it would be honorable or desirable to give up an engagement under such a condition of things as the following : A young medical man had called upon him saying that he had become engaged to a young lady whose mother had been insane for many years ; in fact was of unsound mind when she married, and the young lady herself was very neurotic and easily excited. The question in these cases had to be decided whether a man was justified in giving up an engagement, especially when such a course would very likely induce an attack of insanity in the lady who is rejected. Again, he knew the case of a gentleman who made an offer of marriage to a lady. She refused him, and in consequence of that he became insane. He recovered, and she then accepted him. They married and had a family. He was not aware that any had shown mental symptoms. The wife died, and in consequence of her death he again became insane. He again recovered, was again married, and had now another family, and was, he believed, mentally well. In relation to another class of cases—those of great ovarian irritation and erotic tendencies—a mother would ask, “Is it not really most desirable that my daughter should marry?” In such cases he had no hesitation in declining to give any encouragement to the idea of such persons marrying. The husband ought also to be considered.

Dr. CROCHLEY CLAPHAM.—What advice did you give to the young man?

Dr. TUKE.—I told him that I thought it was a very serious thing to marry, and that he would not be acting dishonorably under the circumstances, in giving up the engagement (hear, hear).

Owing to the lateness of the hour Dr. SAVAGE replied very briefly, saying that the paper was meant simply to be a suggestive one. Nearly all the speakers had quoted facts, and if the facts could only be put together much good would accrue. He therefore, hoped that the members would accept his paper as merely a suggestive one, and fill up the details for themselves.



## JOURNALS AND BOOKS.

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ARTHROPATHIES IN GENERAL PARALYSIS OF THE INSANE.—Dr. J. C. Shaw, Superintendent of King's County Insane Asylum, in an interesting paper on "Arthropathies in general Paralysis of the Insane," in the April number of *The Archives of Medicine*, claims that there is a tendency to softening or fragility in the bones of certain kinds of insanity in support of which he cites four interesting cases.

He concludes an able paper by the observation, "It appears to me evident that we may expect to find trophic changes of the bones, in a variety of diseases of the central nervous system, and that a number of regions of the brain as well as the spinal cord will give rise to these trophic disorders when they become diseased."

It is an interesting question in a Medico-Legal sense, and one which Charcot and others are considering.

THE FACTORS OF THE UNSOUND MIND AND THE PLEA OF INSANITY. By William a Guy, M.D., is reviewed by J. Crichton-Browne, (*Brain*, April, 1883, p. 120)—and we reproduce the writer's remarks, as being of great interest to our readers.

"The publication of Dr. Guy's work on the Factors of the Unsound Mind, with special reference to the Plea of Insanity in Criminal Cases, is peculiarly opportune at a time when the codification of the criminal law is in contemplation. The special advantages which Dr. Guy has enjoyed for studying those forms of insanity which are most frequently associated with crime, entitle his views upon this subject to thoughtful consideration; while the reasonableness, moderation and logical consistency with which these views are set forth, are likely to secure for them a favorable reception by the lawyers

and legislators, to whom we must look for any amendment of the law. Dr. Guy is strictly scientific in his method, but he avoids those technicalities and pedantries that darken knowledge, and succeeds in making even abstruse topics clear and inviting. Deeply learned in the history of medical psychology, and possessing great literary skill, he has produced a treatise which is interesting and instructive to the ordinary reader, and which contains suggestions which may be useful to those who have made insanity their life-study.

“The first factor of the unsound mind of which Dr. Guy treats is illusion; and from an able analysis of the most remarkable-recorded cases of this affection, he concludes that illusions are brain-created sensations or revivals of past sense experiences, and are not necessarily connected with the activity of any faculty of imagination or organ of sense. Passing next to delusions, which he defines as involuntary thoughts, ideas, or beliefs, without data or premises, he classifies them into six groups, according to their nature and the sources from which they proceed, and then by an easy transition he shows how illusions and delusions are combined in dreams, which have long been regarded as an analogue of insanity. After dreams proper, somnambulism or acted dreams, and artificial somnambulism or mesmerism in all its varieties, are passed in review, and then comes a masterly summary of delirium, febrile and toxic, of incoherent speech, catalepsy, epilepsy and hysteria. The three final sections of the first part are devoted to the consideration of the emotions, passions and movements of the will; of insanity arising out of causes of common occurrence; and of the narrative of Mr. Perceval, which is used to illustrate the statements made as to the factors entering into the constitution of the unsound mind.

“The second part of Dr. Guy’s work, if not the most interesting, is certainly the most important and valuable, for in it we have the practical application of the principles laid down to the purposes of jurisprudence. The insane are divided into three classes—those who suffer from undeveloped, from de-

generate and from disordered mind; and the responsibility in courts of law of members of those several classes who have committed acts of fraud or violence is considered. The differential diagnosis of homicidal acts by imbeciles, by maniacs, and by patients laboring under insane impulse, is very carefully worked out, and it is satisfactory to find that Dr. Guy has no doubt as to the existence of sudden and irresistible impulse leading to violations of the law. The theory that it is justifiable to punish madmen, and that it cannot be considered unjust or rigorous to inflict the penalty of death on a mischievous being divested of all the perceptions of reason and humanity, is disposed of in a very convincing manner, and figures are quoted to prove that neither to the sane nor to the insane class among our criminals does the prospect of long imprisonment or detention for life in a lunatic asylum offer any attraction or temptation; while the punishment of death seems as if it might exercise a certain attraction or fascination. It appears that the execution of a lunatic murderer has almost invariably been followed by an increased crop of lunatic murders.

“The amendment of the law which Dr. Guy, in common with all eminent medical jurists, chiefly desires, is the abolition of the knowledge of right and wrong as a test of legal responsibility. Quoting from the amended Criminal Code Bill, that ‘To establish a defence on the ground of insanity it must be proved that the offender was at the time when he committed the act laboring under natural imbecility or disease of or affecting the mind, to such an extent as to be incapable of appreciating the nature and quality of the act or that the act was wrong,’ he confesses that, like the late Lord Chief Justice, he cannot understand the definition, and he goes on to indicate the several classes of cases on behalf of which the plea of insanity must sooner or later be set up. These are—1, Cases of acute instinctive or impulsive insanity; 2, Cases of chronic instinctive or impulsive insanity; 3, Cases of epilepsy and homicidal impulse; 4, Cases of imbecility; 5, Cases of mania.

In all cases of all these classes there is weakening or destruction of the power of the will. Dr. Guy would dispense with all attempts to ascertain the state of mind of the accused at the time of the act, with all questions bearing on his knowledge of right and wrong, legal and illegal, and his appreciation of the nature and quality of the act, whatever that may mean, and concentrate the attention of the Court on the one plain question—Is the accused of unsound mind, and was he so about the time when the act was committed? He would also no longer object to the plea of insanity being set up in difficult cases of moral insanity and instinctive mania, the existence of which it is impossible to ignore. He would have a medical assessor present at every trial at which the plea of insanity is set up, to hear all the evidence and assist the Court; and he would have skilled witnesses selected by the College of Physicians or some scientific body, and not by the prosecution and defence.

“On the question of corporal punishment in prisons, Dr. Guy’s views, which are freely and confidently expressed, are open, we think, to grave objections. The punishment of pain, surrounded with proper restrictions and patiently held in reserve, is, he argues, eminently humane, just to the well-conducted, and very often the only instrument of reformation to the habitual offender. But exactly the same arguments which Dr. Guy now advances in favor of the retention of corporal punishment in prisons have been urged in support of its continued employment under various other conditions of life, and have been again and again refuted by the practical results of its abandonment. Dr. Guy seems to think that the lash is peculiarly advantageous in dealing with strange epidemics, of self-mutilation and attempts at suicide, which he has witnessed in prisons; but surely the fact that he speaks of such outbreaks of offences as epidemics betrays his own recognition of a morbid element underlying them, and surely the arguments which he has himself marshalled against the punishment of the insane, in relation to the penalty of death, may be



equally adduced against their punishment by flogging. It is incontestable that lunatics do find their way into prisons of all classes, where their mental disease often remains long undetected; and it is obvious that the intractability, irregularities of conduct, and degraded habits which arise out of their diseased state, must render them singularly liable to corporal punishment, where that is retained as an instrument of discipline. There are good grounds for believing that lunatics—and lunatics, too, laboring under mortal disease of the brain,—have been flogged in prisons in this country, at no very distant date, for mere infirmities of body, which have been mistaken for vicious habits. The possibility of such an occurrence, of a being already burdened with one of the most terrible of human afflictions being subjected to this punishment, or of what is practically a dying man being tied to the triangle and flogged, is almost of itself sufficient to justify the abolition of corporal punishment in prisons, unless very strong countervailing advantages can be shown to attend its use. But with reference to the epidemics of self-mutilation and suicide in which Dr. Guy thinks corporal punishment so beneficial, and even essential, it is to be borne in mind that similar epidemics are being dealt with daily, and most successfully, in all our lunatic hospitals, without any resort to the lash. The uniform experience of those hospitals in which are congregated together tens of thousands of men and women, more violent, reckless and unmanageable than are to be found in prisons, is that severity is subversive of true discipline, and that humanity and firmness will secure order and obedience where harsh measures would fail lamentably to do so. There is not an asylum officer in any civilized country who would wish to return to the floggings which were at one time a regular branch of treatment in all institutions for the insane, and which were defended with arguments even stronger than those now advanced in defence of prison-floggings, for it was maintained that they were not only necessary for the preservation of order, but positively curative in their effects."



The MEDICAL RECORD is probably one of the leading medical journals on this side of the Atlantic. It devotes some space to medical jurisprudence, and in the July 14, 1883, number, is an interesting paper by T. L. Wright, M. D., Bellefontaine, Ohio, on the "Inability to Discriminate between Right and Wrong, Disguised by Automatism." The paper is a valuable contribution to the literature on this subject. It is a thoughtful and strong argument against the reasonableness and soundness of the legal principle fixing criminal responsibility of lunatics on the question of ability to discriminate between right and wrong, and a full knowledge of the nature, character and consequences under the law of a given act. The duty and mission of medical men now is, to assail the law as it exists in England and many of the American States, a position which Dr. Wright appreciates and meets.

We should be glad to see the doctor continue the discussion from his standpoint, and on the inquiry as to whether by law that knowledge should longer continue to be the legal test of criminal responsibility.

Another point in Dr. Wright's paper merits notice. He boldly puts himself on the side of T. D. Crothers, J. Parrish and others, who classify certain forms of inebriety as a disease of the brain, and which view he supports with signal ability.

Dr. Parrish in his recent work on inebriety (P. Blakiston, Son & Co., Philadelphia), takes still stronger more advanced and scientific ground. He cites the most lustrous names of English and American scientists in support of his view, while Dr. T. T. Crothers the able editor of the *Journal of Inebriety* has appeared in the columns of the *Medical Record* with a paper which assumes this as a fact and beyond cavil or debate, entitled "Inebriety from Obscure Physical Causes." Dr. Crothers seems to have aroused a host of disputants. Dr. B. F. Hart of Brownsville, Mo., assails Dr. Crothers' views in a three column article in the *Medical Record* (July 7th, 1883) ridiculing the scientific assumption that inebriety in any form

is a disease; and Dr. J. B. Stair, of Spring Green, Wis., contributes a letter to the same side in the *Medical Record* (July 14, 1883).

We do not doubt the ability of Dr. Crothers to meet this question. There seems little difference of opinion now among advanced scientific thinkers, that certain forms of inebriety is a pronounced disease, on which the late book of Dr. Parrish is probably the best recent exponent and advocate.

The POLYCLINIC, a Monthly Journal of Medicine and Surgery, is placed on our table.

This is an entirely new movement, published by P. Blakiston, Son & Co., Philadelphia; edited by the Faculty of the Philadelphia Polyclinic and College for Graduates, and is published at the surprisingly low price of \$1.00 per annum.

In the July number appears the paper read by Dr. Chas. K. Mills, of Philadelphia, before the American Neurological Association, June 30, 1883, entitled "Locomotor Ataxia, terminating as General Paralysis of the Insane," or an analysis of the same. Its important feature was the clinical case cited, which was of decided interest. He compares it with the cases cited by Westphal, particularly in pathological microscopic indications, and cited various authorities besides Westphal, prominent among whom were Hammond, Hamilton (Allen M. L.) Leidsorf, Maudsley, Calmeil, Baillarger, Charcot, Obersteine, Plaxon, Mickle, and others.

INJURIES OF THE SPINE AND SPINAL CORD, &c, &c. in their Surgical and Medico-Legal Aspects. By Herbert W. Page, M. A. J. & A. Churchill, London. P. Blakiston, Son & Co., Philadelphia, Pa.

Dr. Page has given to the public a very valuable contribution to the literature upon this subject, for which he is especially qualified by an experience of more than nine years as surgeon on the London and North Western Railway. The first two chapters treat upon concussion of the spinal

cord, and of the spine. Chapters 4 and 5 on "Shock to the Nervous System." Chapter VII is particularly valuable in a Medico-Legal sense, for its admirable treatment of "Malingering." While chapter VIII contains very much of the former paper by this author upon "Injuries to the Back Without Apparent Mechanical Lesion in their Surgical and Medico-Legal Aspects," which was awarded the Boylston Medical prize of Harvard University in 1881, an endorsement which should entitle the work of Dr. Page to especial commendation by every student of medical jurisprudence in either profession.

The volume is valuable to lawyers in cases litigated against corporations for damages to the spine. Dr. Page presents his views with ability and courage, and on the surgical side must awaken controversy as opposite views on certain questions are entertained by distinguished surgeons on both sides of the Atlantic.

The CONTINENT is winning its way to first place among magazines, and well deserves the success it has achieved. Its forthcoming numbers announce the completion of "Judith," "All Out Doors," "The What to do Club," with additional new attractions.

The JOURNAL OF INEBRIETY.—Dr. T. D. Crothers, of Hartford, Conn., is making this journal influential in its field. How far intemperance is a factor in, and cause of insanity, has been forced upon us. And no more thoughtful student of the subject can be found than the editor of this journal. The July number contains articles on The Pathology of Inebriety, by Dr. E. C. Manning; How to treat Inebriates, by Dr. Joseph Parish; Facts covering Inebriety, by Dr. Day; Historical Notes on Legal Responsibility of Inebriates, by the editor. The editorial department is strong, and the journal a very able exponent of that branch of the science to which it is devoted, and which is now exciting a wide public interest.

The NATIONAL DRUGGISTS' JOURNAL seems to have its field to itself. It has not confined itself to the wants of druggists, but produces original and interesting articles upon every branch of medical science, and has attained already a wide circulation.

The SANITARIAN in its new form fills an important field on Sanitation and public hygiene. It has given considerable attention to Medico-Legal questions as well, and is the leading journal in this country in its special department.

The MODERN AGE is a new applicant for popular favor, published by the Modern Age Publishing Co., No. 150 Nassau street, or Buffalo, N. Y., and is sent monthly at the low cost of \$1.60 per annum. The August number contains an interesting article entitled "De Mortuis," by C. F. Gordon Cumming, which gives some new light, not only on "Cremation," but on the proper disposal of the dead. The selections are made with wonderfully good taste.

The MEDICAL ERA is sent us, published at Chicago, Ill., by Cross & Delbridge. Its first number appeared July, 1883. It will be published monthly, at \$3.00 a year, and publishes a list of contributors containing very strong names. Its first number does not contain any article of a medico-legal character, but we notice in its list of contributors the names of Dr. A. C. Cowperthwaite, author of *Insanity in its Medico-Legal Relations*; Dr. N. B. Delamater, Professor of Mental and Nervous Diseases; and Dr. Clifford Mitchell, Professor of Chemistry and Toxicology. So we doubt not its later pages will contain articles of interest to medico-legal students.



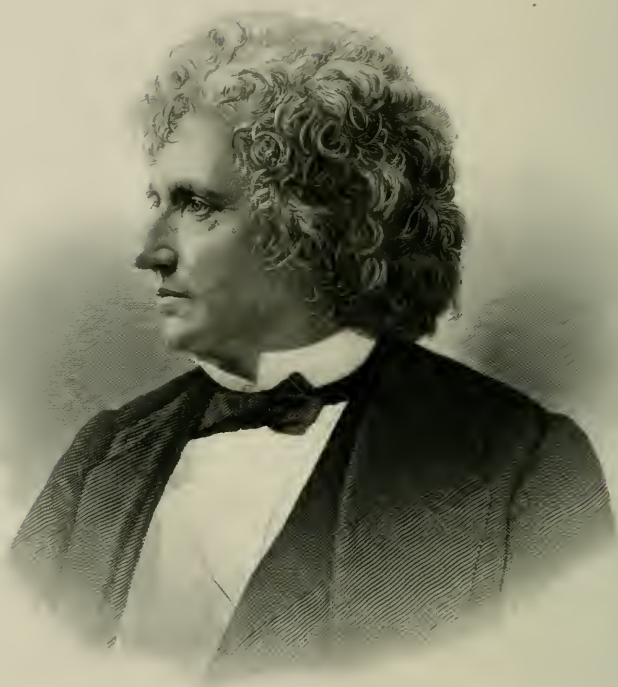
PROF. JAMES R. WOOD.

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JAMES RUSHMORE WOOD, LL.D., M.D., was born in New York City, September 14, 1816. He was educated at the Friends' Seminary, New York, and did not have the advantages of a collegiate education. He studied medicine with Dr. Tully, of New Haven, and Dr. David L. Rogers, of New York, and took his medical degree from Castleton Medical College, Vermont, in 1846. The next year he identified himself with Bellevue Hospital, and was one of the founders of the Bellevue Hospital Medical College, in which he held the Chair of Operative Surgery and Surgical Pathology until 1868, when he was made Emeritus Professor of Surgery. He was one of the most distinguished and able surgeons in this country, and a bold and very successful operator. He was twice President of the Pathological Society of New York; twice a Vice-President of the New York Academy of Medicine; a member of the County Medical Society, the American Medical Association, the State Medical Society, and other kindred associations. His most remarkable operation was the entire removal of the lower jaw for phosphor-necrosis, reproducing it from the periosteum. He was a contributor to surgical literature, a member of the Medico-Legal Society, and held the science in high esteem, but did not take an active part in the meetings or transactions of the society. He was a man of marked courage, enterprise and persistency. His dissections were many of them unique and exquisite, resulting in a very valuable collection, which he presented to the college, and is a monument to his memory. He was prominently connected with many of the most important surgical operations of his time, and was held in high estimation, not only by his profession but by the general public. He died at his residence, 80 Irving Place, May 4, 1882, of double pneumonia.



4.



*E. M. Stoughton*

# MECHANICAL RESTRAINT

## IN THE TREATMENT OF THE INSANE.\*

BY ALICE BENNETT, M. D., PH.D., State Hospital for the Insane,  
Norristown, Pa.

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MR. PRESIDENT AND MEMBERS OF THE MEDICO-LEGAL SOCIETY  
OF NEW YORK:—

I am conscious of my own boldness in venturing to speak to you to-night on the subject of mechanical restraint in the treatment of the insane, inasmuch as high authority in your own State has recently told us that “the discussion of restraint on its merits has long since been so exhausted as to render all that can now be said mere repetition.”

In the light of this statement and of its eminent source, you will not look for me to bring to you any new arguments or fresh array of facts; but I shall hope to justify myself in the repetition of some that are old. “Every principle in this matter has been settled,” again says the authority quoted; yet I find nothing more commonly and more completely misapprehended than the principles underlying the methods of treatment without mechanical restraint—principles as old as human nature itself, and so plain that they should be self-evident to every one possessed of human attributes.

For example, we read in a late report of Public Charities from a neighboring State: “The restraint and seclusion” (speaking of a designated institution) “are proportionately

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\* Read before the Medico-Legal Society of New York, June 6, 1883.

less than at any other of the State hospitals, but this fact compels the attendants sometimes to use their own strength against the violence of patients more frequently than if greater mechanical restraint were employed." In this, the latest official utterance of a State recognized as more than ordinarily enlightened and progressive, the main principle of the non-restraint method—the very point of the argument—is absolutely missed. I appeal to you, is there not room for "repetition?"

I will ask leave to pass over the history of former discussions on this subject, interesting though they be, and to speak to you only out of my own experience of what I have seen and known.

In a service of three years (lacking one month) in the State Hospital for the Insane of the Southeastern District of Pennsylvania, something over eight hundred female patients have been under observation. This experience, while confessedly short and inadequate, is yet believed to cover the usual variety of phases of insanity, and more than the usual proportion of the chronic, turbulent class so often the subjects of mechanical restraint. From the county alms-houses, where cases had been accumulating during the years when this District of Pennsylvania had no adequate provision for her insane, came a considerable number who had been habitually, for months—some even for years—subjected to some form of mechanical restraint. With a new and untried organization, inexperienced officers and subordinates—with the general barrenness incident to a new hospital, and the almost total absence of the usual devices for attracting, diverting and occupying the large numbers that were literally poured into the hospital from all sides, it is believed that the conditions

have been such as to offer a test more than ordinarily severe.

During the first fifteen months some little restraint was used experimentally. Since October, 1881, none has been employed. The results of the first three months' experience were given in the first official report of the Department for Women to the Board of Trustees, as follows: "Nothing is more certain than that mechanical restraint is incompatible with 'moral treatment,' and that resort to it destroys at once any personal influence that may be brought to bear. Whether a confession of fear on the part of the attendant, or a substitute for the latter's vigilance, it can hardly fail to lessen the bond of respect between patient and attendant, which it is essential to preserve."

And, again, a year later: "Extraordinary precautions often suggest or increase the 'violence' they are intended to prevent. Freedom of action is a wonderful tranquilizer. \* \* \* When to these restless, rebellious natures leather bands and canvas jackets say 'you shall not,' the antagonistic spirit responds at once to the stimulus. The impulse to do the thing forbidden is likely to disappear with the removal of the apparatus which suggested it, and if judicious moral influences are brought to bear, will not return in any uncontrollable form."

Briefly formulated, my convictions, based upon experience, are as follows:

1. Mechanical restraint does *not* (in the majority of cases) "restrain."

[It is not easy by any mechanical appliance to so confine a person that he cannot accomplish something by muscular effort and energy, checked in one direction, finds some other



outlet, with the added impetus of resentment and desire for revenge.]

2. It *does* exert a positive influence for evil.

3. It is infinitely *easier*, *safer* and *cheaper* to do without it.

From every point of view, then, in the interests of the insane themselves, in the interests of their keepers, and in the interests of public economy and of humanity at large, mechanical restraint should be abolished.

But we are again told authoritatively: "These principles have been settled; mechanical restraint is inadmissible in itself; it is to be used only when necessary and indispensable for exceptional cases."

Just what these "exceptional" cases are is not laid down; I have not seen them, and I need not tell you that this rule of necessity is apt to become a sliding-scale, adjusting itself to the convenience or caprice of the hour until the "exceptional" cases are likely to cease to be exceptional. Even admitting (which I am far from doing) the existence of the hypothetical, occasional case which may be benefited by restraint, I would still hold fast to the principle of the "greatest good to the greatest number," and would unequivocally banish an agent which so certainly becomes a centre of evil influence.

In a consideration of this subject, one fundamental fact must be recognized, viz: that the insane differ from the sane only in degree, and often not to the degree popularly supposed. It is essentially human nature that we have to deal with; the same feelings and passions—albeit thrown out of their orderly relations to a greater or less degree—amenable in some measure to the same influences; often an increased irritability, with the power of self-control—dependent on the

orderly action of the higher centres—diminished, but not necessarily absent. No where have I seen a keener sensitiveness to kindness, and most especially to injustice, than among the insane; nor are the higher attributes of gratitude, self-denial and self-sacrifice for others absent.

I am insisting upon these facts, because I believe that some remnant of the old superstitious ideas relating to insanity yet lingers in a corner of the minds of many of us; the tendency to look upon the possessor of a “mind diseased” as something other than ourselves—a little less than human—and among the “obligations of the sane to the insane,” none, to my mind, presses so heavily, at the present time, as the recognition of this mutual kinship; of the fact that the insane are also men and women like ourselves, and not beyond the application of that rule which says: “Whatsoever ye would that men should do unto you, do ye even so to them.”

An intelligent visitor once said to me, in walking through the wards of my own hospital: “What startles me is that these people are so like ourselves!” This fact once accepted, we shall look within ourselves for the principles that shall guide us in the treatment of this most unfortunate class of our fellow-men.

You will agree that it is a not uncommon trait of our common human nature to want what is beyond our reach—to desire to do the thing forbidden. Especially is this true where the higher control of reason and of will is undeveloped, as in children, or in abeyance, as in the insane, who frequently are only “children of a larger growth.”

Trust begets trust-worthiness; and the reverse is no less true.

Now if a person (more or less insane, as the case may be)

sees every provision made for his conducting himself like a wild beast, I do not doubt that, in nine cases out of ten, he will proceed to justify that expectation. If, in addition to windows barred, screened and locked, double doors (perhaps even with the small sliding windows so suggestive) heavy immovable furniture—surroundings calculated to arouse an antagonistic spirit—he is perhaps seized upon and either because of what he has done, or of what someone fears he may do, his personal liberty is still further abridged by some of the many ingenious forms of mechanical restraint, what wonder that his evil passions rise and that he proceeds to do all the damage possible, and I assure you he can do a great deal; if his hands are confined he can kick, if his feet, he can bite, and both with a ferocity and accuracy of aim most undesirable.

You can easily see how such a case goes on from bad to worse. The restraint continues to excite and intensify the "violence," which, progressively increasing, becomes each day a stronger "justification" of the restraint, and so have been manufactured those notoriously desperate cases which are pointed out to curious visitors as having been "chained" or "caged" for years. Examples of these are, happily, less common than formerly, but the County alms-houses still furnish a few, and one such has come under my care even during the past year.

One who has watched the transformation of cases like these under the influence of personal liberty and rational methods of treatment can but marvel that a principle so plain, so evidently founded in the commonest laws of our common nature, should admit of discussion.

In support of the statement that it is easier and safer to

control the insane by moral than by mechanical means, perhaps I cannot do better than to give you notes of some individual cases that have occurred in my experience:

Case 1, was introduced to us as a most dangerous character, especially renowned as a "kicker;" had been continuously restrained in another hospital by a leather "muff" for six months preceding admission. The propensity to kick everything and everybody within reach being a natural consequence of the confinement of her hands it followed that the simple removal of the "muff" made her at once a less dangerous companion. By systematic, firm, yet kind, discipline, bad habits were corrected, self-respect stimulated, and she has become a tractable, working patient, although belonging to the hopelessly chronic class.

Case 2, an immensely powerful, muscular German woman, one of the first admissions to the hospital, brought with her a reputation for ferocity calculated to strike terror to the soul of the uninitiated. For months she had been chained in a dungeon, the limited space of which scarcely permitted her to lie at full length on her heap of straw. Through the grating of the heavy door was thrust the food, which she must eat as best she could, with hands confined. Here also the curious were privileged to gaze upon this monster in human form, who, with her hair long ago torn out by her own hands and her expression of savage distrust and defiance, might well seem something less than human. A year ago I introduced a gentleman interested in public charities to this same woman, standing in the door of her neat little room, which she invited us to enter and inspect. Her thick gray curls surrounded a face strongly-marked and resolute, yet not unpleasant to look upon, and her general appearance was such as to attract a stranger at once.

She was led to speak of her former experience: "And *why* were you locked up in a dungeon?" asked my friend. "Because"—but I can not repeat her language. At the mere recollection, a tithe of her old fury was aroused and her mien hinted at the total annihilation of anybody in her path.

"But why did you have those feelings there and not here?" persisted the visitor.

"*Because they locked me up.* Would *you* like to be locked up like a beast?" came the answer, with an emphasis which was a whole sermon in itself. This patient also belongs to the chronic class, and is probably a "life-member" of our little community, but she is a busy worker, she has a quick, ready intelligence and warm affections, and her life is not altogether an unhappy one.

Case 3, on admission had worn the camisole for a length of time. The proficiency this woman had attained with her feet was marvellous. To open and shut windows and make (but more often to unmake) beds was easy and her mischievous propensities knew no bounds. This case is a good example of the inefficiency of restraint. She has now largely recovered from her mischievous and destructive tendencies, but she also is a chronic, incurable case.

Case 4, a young girl of prepossessing appearance, transferred from a county almshouse, had been restrained, as to her hands, for several months previous to admission. "Too violent for women to manage" was the verdict of the man who had had exclusive charge of her during that time. Of this patient I have nothing to say except that, from the time wristlets were removed, while she lived, (she died of Phthisis two years later), no reason appeared for such restraint. Hopelessly demented, she was yet tractable, grateful for



kindness, and kissed the hands of the nurse who liberated her.

Less than a year ago a fire occurred in a county almshouse in the interior of Pennsylvania and eighteen female patients were transferred to the hospital at Norristown. Of these eighteen, ten came in camisoles, not put on for temporary convenience only, as was testified by their cramped white fingers, which some of them seemed to have forgotten how to use and only learned again by gradual steps.

Of these ten, one had her feet also shackled. Even with these precautions the two men who had her in charge were extremely careful, and cautioned others not to go near, saying "she bites." Blood-curdling recitals of the fearful deeds she had done, and would still do if left unbound, as in the previous cases, to me not wanting.

I first saw this woman on the second day after admission, (being away from home at the time of the unexpected transfer) and was struck by her expression of suspicion and distrust. When asked to shake hands, she looked at me some seconds inquiringly, then slowly assented.

I have never witnessed anything more remarkable than the change that occurred in the expression of that woman's face in the days that followed. It is a matter for regret that they were not photographed. It is scarcely exaggerating to say that no ordinary observer would have recognized her for the same person. An epileptic for years, her mind was hopelessly impaired, but she manifested a childlike affection and gratitude toward all who showed her any kindness, and a cheerful smile became habitual. That less than a week was sufficient to effect this change must be considered evidence of unusual native gentleness and susceptibility to kindness.

The above are not exceptional cases selected for the occasion. All patients entering the hospital under restraint are at once released, and in no case has this treatment failed of good result. But I promised that it should be not only easier and safer, but also cheaper to dispense with mechanical restraint. I mean not only that there will probably be less actual destruction of property under the tranquilizing influence of personal liberty, (the restraining apparatus itself is also costly) but in a much larger sense. When this principle of treatment shall be understood and extended as it can be, we shall depend less upon costly external barriers. Buildings constructed upon the simplest plan will be amply sufficient if they are pervaded by the right atmosphere. Probably two-thirds of the insane in our hospitals could be kept without bars and locks.

I am led to believe that much of the paraphernalia of the approved hospital for the insane—heavily barred windows, massive immovable furniture and the like—has too much the tendency to surround the patient with an atmosphere of suspicion, against which he naturally places himself in an attitude of defense, or even of offense; and, further, that, to a much greater extent than has been supposed, these expensive material “guards” can be substituted by moral agencies, which shall encourage, rather than repress, self-respect and self-control, often dormant, but almost never wholly extinct; and this immeasurably to the advantage of the patient, of the hospital and of the tax-payer.

It would be interesting to consider at length some of the details involved in the rational treatment of the insane, but time does not permit.

Certainly one must possess faith and the “courage of his convictions.”

Much depends upon the attendants, upon whom will devolve the carrying into practice of the spirit of the superintendent. They must be without preconceived notions and should be intelligently interested in the principles they are carrying out. The insane must be made to feel that someone *cares* for them, and no counterfeit appearance of feeling, however plausible, will do. I do not believe the patient can be found so demented as to be insensible to the voice of kindness, and the influence of affection upon some of them is really wonderful.

Self-respect must be stimulated by respectful treatment and by encouraging attention to personal habits of neatness dress, etc. Perhaps this latter is more important among women. I recall now one patient who had been in habitual seclusion for a length of time, demented to a degree that rendered her apparently incapable of receiving an idea. Taken out of seclusion by interested attendants, she was found to be much influenced by personal adornment. A white apron and necktie seemed to exercise a restraining influence not inferior to that of a camisole, and she was so much engaged in the contemplation of herself as to forget to do any worse mischief. I have often remarked a peculiarly tranquil atmosphere on Sunday morning when the "best dress" has been universally donned. Employment for restless hands is, of course, important. This is especially useful in the case of those possessed of destructive tendencies. One old lady, I remember, who was completely cured of a destructive habit of picking at her clothing by being set at work picking over hair for pillows, which she did well and apparently enjoyed.

I have found rocking-chairs to exert a sedative influence

upon many, especially upon the excitable and those called "violent." In one patient this proved an excellent substitute for the amusement of tearing her dress.

Out of door exercise is often excellent treatment for excited patients, aside from the tonic influence of fresh air and sunshine. [And here I can not forbear digressing to say that I can find no place, nor use, for "airing-courts." In my experience the patients who go out oftenest, for the longest distances and the longest time, are generally those from the most excited wards, and no class so much enjoys the freedom of the country.]

One thought comes to me in closing: There is no more inexorable law, nor one of wider application, than that "action and reaction are equal," each to each. A wrong done operates not only upon the receiver, but upon the doer also, and equally. Who will undertake to estimate the influence upon ourselves and upon the moral tone of the community at large, reacting from a system of repression operating upon a large class of our fellow-men; a system calculated to crush out their feeble possibilities for good, to foster their baser instincts, and under which they have often sunk to depths of degradation and misery almost inconceivable?

# OBLIGATIONS OF SOCIETY TOWARDS THE INSANE.\*

BY REV. R. HEBER NEWTON.

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It is not for me to speak of any aspect of the sad and serious problem calling us together that demands professional knowledge or personal experience. But there are other aspects of this grave subject which may fitly be left to a mere parson.

The treatment of the insane is not a matter which concerns the medical profession alone. Their interest in it is only vicarious, as they bear the responsibilities of the follies and sins and misfortunes which entail this worst of diseases on poor humanity. I have never heard that they are particularly liable to going mad. It is the public which is really concerned in this subject. Of all forms of suffering that claim the interest of the public none other makes such appealing demands. Insanity is, *the* disease of civilization. Even that genteel ubiquity *malaria* cannot so well lay claim to being the sign of civilization. Practically unknown to the savage, insanity has been evolved with the social organism. It keeps step with the advance of civilization. It is the scourge of the educated, the refined, the successful, the religious. It is Nemesis in the nervous system. We are all

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\*Read before the Medico-Legal Society of New York, June 6, 1893.



liable to it—the more liable to it as we are finely developed, high strung, hard worked men and women. You and I may snap in the tension of modern life, and add new subjects to the burdened hands of our doctors. Into our homes this horror may steal and rob us of those dearest to our lives. No man or woman lives in happy health of mind to-day who ~~can say~~ "This is none of my business." And if it comes home to any of us it comes as the worst possible affliction in the long catalogue of the "ills that flesh is heir to." No physical sickness equals the horrors of "the mind diseased." Who of us would not pray for death's pitiful stroke rather than be let alive in body with the reason fled? Who would not rather close in peace the eyes of those he loves the best than see them stare upon him with the maniac's glare? Being such a common calamity, commanding the concern of the people at large, it is also the one disease which most opens room for mal-treatment and abuse. There is need of no sensational touches to draw in deep enough chiaroscuro the darkness of deviltry this malady may inspire. To realize one fact is to open a vista of possible abuses dreadful beyond description. The insane person is the one human being whose testimony in self-defense is worthless. For every other man and woman there is the chance to plead for liberty and justice. Even the child may lift a piteous plea which shall melt the hearts of his hearers. But, however pitiful the appeal, it is enough that two or three men who can show a medical diploma—which appears to be uncomfortably easy in some of our cities—shall swear to his insanity, and no Court receives a man's witness for his rights of property or of person. We went into spasms of horror over the wrong, cruel enough, indeed, which shut the black man's mouth be-

fore the seat of justice, because he was a slave. We are all slaves, whom society can disfranchise by one magic word—"insane."

What possibilities such a state of things opens to cupidity and unholy affections! Parents whose wealth is coveted by unfilial children, wives whose property is desired by unloving husbands, have but to be pronounced insane upon the sworn opinion of two or three purchasable men, always to be found in the ranks of the medical profession, as of any profession, and they are imprisoned behind bolts and bars, which the law makes fast. A wife of whose presence an unfaithful husband is tired, a husband whose haunting presence embarrasses an untrue wife, can be quietly put where they can be securely kept, leaving the coast free to guilty love.

And once safely lodged within an asylum, what power of indignant protest or heart-breaking appeal can win the liberty thus lost? To flashing eye and streaming tears alike, there is needed but the shrug of the shoulder and the raising of the eye-brows and the tapping of the head, by the finger of him in whom cupidity or passion has lodged the jailership of the poor wretch, to lull suspicion, to steel the heart and send away the prisoner's real friend in sorrow, not in anger. Insanity simulates the calmest reasonableness, as is well known, and thus even the clear, quiet story of the prisoner may turn against him. "That is the form his hallucination takes"—closes the last door of hope upon him and shuts him into frenzy, real at last; demented by order of society. I do not say that such things often occur, but I do say that our laws open the way for such things too easily.

Within the prison what security has the insane person? His testimony is under constant impeachment. Let the best

physician be at the head of an asylum, and when his back is turned, what may not the attendants do? Pretty much anything they have a mind to do with many patients, since the mad, like the dead, can tell no tales—none that will be believed. Food may be withheld, delicacies ordered for a feeble patient may be eaten by the nurse, coarse language and brutal treatment may be the methods in which low hirelings minister to gentle ladies, and what redress is there? “The patient’s comp’aint!” But what bonds can authenticate the words of insanity? I speak in these things of what I do know, though not of what I have seen.

Let a conscienceless man be at the head of a private “Home” or public asylum, with women as well as men under his care, and what security has the public that the institution covers no shameful abuses, when the oaths of the patients are not receivable in Court, and their keepers are secured from thorough and searching inspection?

These are possible wrongs which lie latent in such a state of things as exists in some of our States. Society owes a solemn duty to those whom society thus endangers.

Retracing our steps along the brief line of thought we have followed, some hints may be picked up on the way for our action, as citizens, towards this misfortune that may so easily become a monstrous wrong. The present possibilities of wrongful loss of liberty should be more carefully guarded. It is not for me to suggest what should be done, but simply to suggest that something needs to be done, to make it more difficult for interested parties to imprison those whom they would put out of the way. There is room here for some good work by lawyers, in drawing up better legal safeguards. There is room here, also, for the medical profession to exer-

cise more vigilant watch upon the irresponsible camp-followers who will always be found in the train of such a host. The same swift vengeance should light on wrong of this kind, wrought by a practitioner, which our great chambers of commerce deal upon dishonor wrought by a member of the trade.

There is room here, also, for the incessant vigilance and all-scrutinizing inspection of the State. All private homes for the insane should be made open to the same official inspection that the State asylums receive, and all homes and asylums should have a better system for inspection than that which prevails too largely. Formal visits of inspection are of no use. When there is opportunity for preparation there is no real investigation. There should be the greatest possible freedom given to inspectors—the privilege of going through these institutions at all times and without any announcement. There should be feminine visitors for the women's wards just as much as female nurses. The worse the outrage the less willing is a woman to make complaint to a man.

There is room here for a great deal of the work of which the press is very fond. Unpleasant as its calcium glare at times becomes to those who have notoriety thrust upon them, there is no question that this pitiless publicity of the daily papers is one of the most powerful safeguards of society's best interests. It were to be wished that these electric light companies ran their poles up over against every Home and Asylum. Painful as this might often be to private feeling, it would secure the people at large from the wrongs which lurk alone in the darkness.

The efforts of such an Association as this, to reform the

treatment of the insane, should be heartily sustained by the public.

What this reform calls for of specific change it is not for a layman to say. Competent authorities will present their plans. But when the doctors tell us what is needed to be done the people must help them to get it done. Plans have to be enacted and made to work aright. There is room here for the co-operation of every one who has the least form of social influence. Governors, legislators, editors, lawyers, ministers, men of business, women who sway the social omnipotence, fashion, all can lend a hand in one way or another. Two things have impressed me as essential to the success of any reform such an association as this may try to achieve. The first condition of a better ordering of all the vast and momentous responsibilities which more and more must come upon the State is the reform of the Civil Service. And this not alone by the passage of laws such as that over which we are now rejoicing, but by their being put into thorough operation in National, State and Municipal government.

When public positions are divorced from professional politics the administration of the grave and delicate trusts of Government—as the Warden of the young, the poor, the sick, the insane—may be made a benediction beyond our present dream ; as then to these high and honorable positions may be called our wisest and our best. Then may our rulers prove, as Plato called them, “the Guardians of Society.” All dreams of right administration of public trusts are futile while public trusts are the spoils of war to those whose creed is

“I don't believe in principle,  
But oh! I do in interest.”



Let each help to make this reform the parent of a big brood of blessings.

Second, a due provision of properly trained nurses for this most taxing of ministrations. If trained nurses are coming to be regarded by our best physicians as indispensable to the proper care of the diseased to-day, how much more necessary are they in the care of the mind diseased ! There is needed a knowledge of the symptoms of this most miserable of sicknesses and of the methods of dealing with them, which demands special mental training. There is needed, as well, a power to rule with quiet firmness, a gentleness of tone and manner, a delicacy of thought and feeling which requires a special moral training. There is here an opportunity for abuse of power in the hands of coarse creatures, the hirelings who care not for the sheep, which demands for such positions men and women natively upright, and trained in an *esprit du corps*, which would lift them above abusing their responsibilities.

What new and improved system of treatment will make our homes and asylums such institutions as they should be, while the breed of Sairy Gamps find in them their last hiding place.

In that grandiloquent phrase of the olden prayer-meetings, there is much needed here "the besom of destruction."

We have, thank God ! our Training Schools for Nurses ; but is there in the whole country one school for the special training of nurses for the insane ?

Such an institution properly founded and conducted, would call to the ministration upon this most pitiful form of misery the talent and character of a superior order of men and women as always follows from the ennobling of a voca-

tion. Hosts of gentlewomen wait new openings for honorable self-support, and such a vocation would command their refined and sympathetic service with benign results.

Here is a chance for a noble benefaction to humanity which will make some rich man's name illustrious in the generations to come; as, through the hands his wise munificence has trained, there comes back the harmony divine to

“Sweet bells jangled out of tune and harsh.”

## REPORT OF THE COMMITTEE ON EXPERTS.

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TO THE MEDICO-LEGAL SOCIETY :

The undersigned committee, charged with the duty of considering Dr. Wight's paper on Expert Testimony, etc., beg leave to report as follows :

Your committee premise that they have thought it well to incorporate their own views and suggestions with those of Dr. Wight, in order if possible the better to define the duties of a medical expert ; to show more clearly what knowledge is necessary to a competent expert, and provide a remedy for certain evils of our Medical Expert Testimony which now are growing apace.

According to our essayist, an expert is " One who has special knowledge to impart under oath for the enlightenment of court and jury."

To this your committee would add that this knowledge must be and is, in many cases, not within the power of men of ordinary talent, as often there may arise questions which only extraordinary ability can answer, *e. g.*, cases of nervous affection in medical science.

When, therefore, a physician is called to testify as an expert, he is or should be called solely on account of his special knowledge, by which the court or jury will be enlightened, and guided to a proper conclusion on questions of medical jurisprudence.

This is the only object of the medical expert, and he should not appear, nor be allowed to appear in our courts, as is now the use to which he is put, to support a particular medical theory, whether sound or unsound, advanced by one or the other of the parties before the court.

And your committee claim that the present method of obtaining Medical Expert Testimony is defective, in that it in no way serves to enlighten court and jury, but rather tends to perplex the mind of both, and in most cases defeats the very purpose of its use. Hence the many verdicts contrary to common sense and scientific accuracy.

Such seems to be the opinion of Dr. Wight, and there is much truth in his commentary, which follows: "The greatest trouble is with the medical expert. The chief cause is that in this country we have no legitimate medical profession. Learned, able, conscientious physicians we have, but they are a melancholy minority in the great froth ocean of practitioners. In the United States there are nearly a hundred medical colleges, a majority of which are only chartered doctor factories. To them flock every year green young men, many of whom could not write a sentence of correct English, if the salvation of their souls depended on the effort, who obtain certificates from easy-going practitioners, listen to miscellaneous lectures for twice fourteen weeks and are graduated as doctors. The schools compete with one another by the ease with which they induct them into a learned profession. And this is not the worst of it. In most States an enterprising fellow who fails as a minister, lecturer on phrenology, schoolmaster or tin-peddler, is allowed to put out his shingle as a doctor, and he is pretty sure to get fools to employ him—for he has cheek, brass, push, pretension and

the audacity of ignorance. From such a heterogenous crowd, gens ferox et posta chimaeris, proving by its very existence the doctrine of spontaneous genesis, parties in litigation find experts to testify to anything they desire. No wonder Judge Davis, of Maine, said with great bitterness in Neal's case:— 'If there is any kind of testimony that is not only of no value, but even worse than that, it is, in my judgment, that of medical experts.'"

While your committee is not prepared to go the length of the severe criticism in the above extract upon the quality and source of the medical experts now appearing in our courts, still, in the vast majority of cases, the above opinion holds good, and but few of those known to-day as medical experts can be exempted from Dr. Wight's category.

The result of Medical Expert Testimony in many recent cases have thrown no special light upon medical jurisprudence, but, on the contrary, have rather tended towards its obscurity. The reason of this is the incompetency of the physicians who appeared therein as medical experts.

The evil is not with the science itself, but with its would-be high-priests.

A few cases are here referred to, in which Medical Expert Testimony was a prominent feature. The first is that of Mr. Gosling; the Society is well aware of what an array of medical talent was there presented. The questions of medical jurisprudence involved were deemed important enough to be brought for discussion before the Society. Of what service was the medical expert in this case? Gosling, an insane man, was adjudged sane. The doctors who testified to Gosling's insanity predicted his death or total imbecility within a few years from the time of his mental vindication. Subse-



quent events have shown that they were right. Following close upon the Gosling case came the Obreight and Cooper cases. Both these men, on the testimony of medical experts, have been adjudged sane. Among intelligent men there is no question of their insanity.

The escapades of Henry Prouse Cooper, and his antics, ever since he was declared sane by a jury of his peers, are too well known to need mention; and if they are not the outgrowth of insanity, then we must needs unlock the doors of every asylum in the land, and look for sane men in Bedlam.

The editor of the *New York Medical Record*, in the issue of January 6, 1883, writes. "Although Henry Prouse Cooper, after a long contest, has been judged sane, and is now at liberty, we are confident that his will prove another Gosling case, and that Mr. Cooper will be demented or dead within a few years. Every medical man of prominence, as far as we can learn, testified to his insanity. This case demonstrates again the defects in our method of getting Expert Testimony."

Your committee would have it borne in mind that in each of the three cases above referred to, experts pronounced upon and declared unequivocally the sanity of the individual.

In his paper, Dr. Wight quotes the following from Judge Woodruff, in *Gay vs. The Mutual Insurance Co.*; 2 Bigelow's Ins. Reports, 14: "Testimony of Experts.—When the speculative and theoretical character of the testimony is illustrated by opinions of experts on both sides of the question is justly the subject of remark, and has been often condemned by judges as of slight value, and like observations apply to a greater or less degree to the opinion of witnesses who are

employed for a purpose, and paid for their services, who are brought to testify as witnesses for their employers."

The learned judge appears to be referring to the medical expert. Dr. Wight then adds: "The testimony of so-called witnesses, employed in suits against corporations, especially railroad corporations, is often scandalously unjust, and sometimes of the very essence of perjury."

Your committee would not apply, nor do they think the learned author intended to apply, this sweeping denunciation to all medical experts; for, beyond doubt, there are able, intelligent and honest physicians to be found fully competent to appear as medical experts in matters to which they have given their special attention, and whose views thereon would be of the utmost importance and worthy of great consideration. But, at the same time, your committee are of the firm belief that the above denunciations are deserved by very many of the physicians now known as medical experts; and that to-day, among the physicians standing forth before the public as medical experts, the number of truly competent is insignificant.

Therefore, Dr. Wight well says, "That quack experts are the bane of trials, and their testimony poisons justice. It has been well said that one who thinks he knows, but don't know, is a genuine dunce, against whom the very gods contend in vain. His presence everywhere is a calamity; his presence on the witness stand as an expert is a judicial misdemeanor."

Your committee would add that the presence of the incompetent medical expert on the witness stand is a menace to justice, and indeed a crime.

Your committee are firmly convinced that the knowledge

necessary for a competent medical expert is not in the power of every physician. The great extent and liberality of medical knowledge that must be found in every competent medical expert is the companion of only superior ability, added to long experience. The mere possession of a diploma and a license to practice the healing art do not presuppose knowledge or ability.

For the protection of personal rights, all men are declared equal before the law; but this does not fix the measure of knowledge, nor can it ever make a genius of a dunce.

If a man is a doctor, he has the privilege of appearing as a medical expert, no matter how feeble his intellect or small his experience. This is wrong. No one should be allowed to take the witness stand as a medical expert without giving satisfactory proof of thorough and special experience in the department of medical science on which he seeks to testify. Time does not allow, nor is it within the province of your committee to discuss in all its branches, the nature of the knowledge the medical expert should have, but passing from the general to the particular, let us consider the knowledge necessary in cases of mental aberration.

Here your committee entirely agree with Dr. Wight that: "The most difficult field for medical experts is that of mental disease. There is no subject on which the courts need more enlightenment—none on which trustworthy enlightenment is more difficult to be found. No small rule of medical science or of assumed law will be used to measure the wide realm of mental aberration; the difficulties to be encountered in such cases are immense. The human mind is not easily fathomed, either in its normal or abnormal state. The greatest intellects of the world, Plato and Aristotle, Leibnitz and

Des Cartes, Kant and Hegel, Locke and Sir Wm. Hamilton have labored in vain to make a satisfactory philosophy of mind. The achievements of mankind in science and art, in commerce and statesmanship, in literature and industrial works are beyond ordinary comprehension. If, then, we cannot measure the products of the human brain in its healthy action, how shall we apply a petty test of legal fiction to the shoreless chaos of its mighty evolutions in disease?"

What an extent of knowledge, what an experience of mankind, what a detective skill this subject requires. He who would pass upon the sanity or insanity of a deceased testator, the responsibility of a criminal with his delusions and hallucinations, to what extent reason prevails in a person under alcoholic influence; he who would do this must have a liberal and unprejudiced mind, deep and thorough knowledge of the many and wondrous avenues of the passions, a keen and intimate knowledge of human nature; his must be the sagacity to distinguish theft from kleptomania, if indeed there be any difference; he must know what influences, if any, eccentricities or insanity have upon a person's will; he must have that rare and delicate power—discrimination—that quality which marks and severs great from ordinary intellects. He should be able to tell us why John Randolph, mentally diseased as he was, never became a maniac; why Lord Byron, a victim of life-long hallucinations and superstitions, preserved his great and wonderful genius. He should know the dividing line 'twixt genius and insanity; he should be able to run the boundary between functional derangement and organic disease; and above all, he should have the courage to confess the limit of his attainments, and should feel that where the public is concerned, professional reputation is a mere bubble.



Certainly it is not too harsh a reflection to say that such knowledge is not in the power of every physician. Therefore, your committee entirely agree with Dr. Wight, that: "In this entangled field no man should be an expert simply because he is a doctor;" and the learned author shows the depth of his reflection in adding: "Even superintendents of asylums, and especially those of long experience, labor under one difficulty, and need a word of caution. They are so accustomed to mental disease that they lose a fine sense of mental health, and thus may lack a full appreciation and presence in mind of the normal condition to which, in the exercise of sound judgment, a new and complicated case of aberration must be referred for comparison. An astute lawyer may embarrass or even confound them by asking for a definition of sanity."

Such is the knowledge which a medical expert, in cases of mental disease, should possess; and on reflection, it will be found that in all the other departments of medical science, the same thorough and searching knowledge is necessary. No wonder, then, that with such requisites, and with our want of means to separate the dross from the gold—the competent from the incompetent medical expert—that so much ignorance of medical science, as often undetected as not, appears upon the witness stand; and no wonder that the average jurymen, to whom we cheerfully accord an inclination for justice, confused by technicalities and conflicting statements, given with all the dogmatism and assertiveness peculiar to empirics and sciolists—no wonder that, in his bewilderment, the jurymen casts his vote for so many strange and unreasonable verdicts; and it seems as if a maudlin pity, rather than an even-handed justice, had decided the case.



"The habit," says Dr. Wight, "of allowing parties in litigation to select their experts before-hand for their ascertained favorable opinion, and to bring them into court as partisan witnesses, is a desecration of the temple of justice."

This is very true; but while a party has this privilege, he will use it; and if he cannot find physicians of ability, experience, condition and authority to support his theory, he will produce men of inferior capacity, of no medical experience, and still less medical knowledge, with narrow-minded views, and who reason from the particular to the general. These men, glib of speech, confident in assertion, and "cunning of fence," testify oracularly and with all the gravity of a Solon; they merely escape the penalty of perjury, because, in lieu of a falsified fact, there is only an expressed opinion. Add to this the temptations and degree of an honorarium, and you have the expert as he now appears.

What do such men know—what can they know of the wondrous, complex and incomprehensible movements of the human mind—of the many and strange afflictions to which flesh is heir? Yet, do they not almost on the spur of the moment solve problems which have taxed the greatest intellects of the world, and which, after years and a lifetime of study, they have given up in despair? Do they not, with all the pomp of a well-settled conviction, declare this man a victim of delusion; that one hopelessly insane; another merely eccentric; another insane, but responsible, and so on throughout the many fields of medical science? For them there is no terra incognita in all the realms of psychology.

The testimony of such men is as sensible and useful as the work Lord Macaulay planned when but a few years past his infancy. He then sought to write on four pages of foolscap a history of the world from its creation.

While litigants have a right to furnish their own Expert Testimony, medical experts will be ever subject to the harsh criticism and contumely of the public; and in many cases not without reason, since their illy-disguised partisanship has invited it.

Those medical experts who really have that superior and special knowledge with which to enlighten the court or jury, and the reputable members of the medical profession, owe it to themselves and society that the quack expert now infesting our courts be driven therefrom, and that it be no longer a common belief that Medical Expert Testimony is a commodity to be sold to the highest bidder.

The immense good to be derived from proper and competent Medical Expert Testimony, and very often its great necessity, should not be defeated by carelessness and indifference.

However, your committee do not agree with Dr. Wight, that: "When a judge admits a quack expert to testify in his court, he makes himself responsible for the public scandal."

The responsibility does not rest with the judge, as he has no means of excluding incompetent medical experts, nor any test to determine their fitness. The remedy and responsibility rests with the Legislature. At the same time blame attaches to both professions—to the medical, for its indifference and faint-heartedness in exposing the quack expert; to the legal, as it employs and calls him into prominence.

No one can deny that men so incompetent as these we refer to appear in our trials, nor can any one say that they would have no influence upon court or jury. No! This can never be averred while the fact exists that lunatics have been released and criminals sent back to society on just such tes-

timony. In view of the results in many recent trials, no one can have the hardihood to assert that the competent medical expert is of any more influence, or even as much, as the incompetent before a court or jury. On such a matter argument is futile and absurd.

Your committee further urge that while the medical expert is called by either of the parties before the court, even in the case of men of superior ability and eminent fitness, there will be a partial, prejudiced testimony of no real value or authority. The medical expert called under the present system is there to prove the theory maintained by the party calling him; and to support it his whole testimony will be directed, not only on account of the relation created by the retainer, between him and the party calling him, but also on account of his personal dignity and self-respect. Worse than all, may not unsound principles and foolish verdicts, as the outcome of all this, become in the shape of precedents the foundation of future law; shall we not rather say of future injustice?

Let us suppose, as often happens, a distorted statement of facts presented to the medical expert, on which he is asked to predicate his opinion. Afterwards a new and true statement of facts is given; they call for a different opinion—he knows not which is true. Is it likely he will change the opinion which he had previously given forth to the public? No. The spectre of stultification is ever haunting him; his reputation for consistency and wisdom is at stake. Will he not turn and twist all his answers to support the opinion he had previously given? Human nature is but seldom capable of acknowledging its mistakes. Such conduct calls for divine strength and resolution.

The first step to a reform is to remove the abuse. Hence, as a remedy, we suggest the severance of the intimate relations between the expert and the party calling him, and a removal of the dependence of the former upon the latter. We would have the medical expert independent of both the court and the parties before it; he should occupy the same relation to the court or jury in matters of medical jurisprudence that the judge holds in matters of law. The following is from the paper before us: "In Buckman's case, the Supreme Court of Indiana admirably says: 'The position of a medical witness testifying as an expert is much more like that of a lawyer than that of an ordinary witness testifying to facts. The purpose of his service is not to prove facts in the case, but to aid the court or jury in arriving at a proper conclusion from facts otherwise proved.'"

This is the proper position for a medical expert, and when that position is secured and provided for him by law, then, and not till then, can we expect impartial, unprejudiced and thorough rulings in medical jurisprudence, and reliable testimony from medical experts.

Wherefore, your committee entirely agree with the remarks by Judge Redfield, quoted in the paper under review—Redfield on Wills, Ch. III, § 13. The Judge says:

"If the State or the Courts do not deem the matter of sufficient importance to justify the appointment of public officers, it is certain that the parties must employ their own agents to do it. It is perhaps almost equally certain that if it be done in this mode, it will produce two trained bands of witnesses in battle array against each other, since neither party is bound to produce, nor will be likely to produce, those of their witnesses who will not confirm their views."



Therefore, your committee entirely agree with Dr. Wight, that: "In no case should the interested parties to a suit be allowed to employ experts—and in turn, experts should be prohibited under severe penalties from receiving any fees from litigants."

Dr. Wight then continues: "It would be well for medical societies, organized on a sound basis, to designate those who are especially learned and skilled in particular departments of medicine and surgery, as proper experts in these departments, and from time to time furnish a list of such to courts in their locality. Laws that may be needed to carry out a plan of this kind ought to be speedily enacted."

There were other points discussed by Dr. Wight, as the responsibility of a criminal who is insane, and other such matters which can only be discussed by experts, the consideration of which would require at least two papers, and which was not within the province of your committee, as they understood their duty in the premises.

And your committee do earnestly recommend that a committee be appointed to draught and forward to the Legislature a law to the effect, that a body of medical experts be chosen by the Judges of the Court of Appeals, in full convention; that these experts be selected from a list of surgeons and physicians, to be recommended by the medical profession, in the manner that seems best to the committee; that each physician or surgeon so recommended must have at least ten years practice as such, exclusive of hospital service, and that he must have spent at least five years in the active practice and discharge of duties pertaining to the specialty in which he is presented as having expert knowledge; that to these medical experts so chosen be referred all questions of medical jurisprudence arising in our courts; that counsel



have a right to submit in writing to these experts any questions pertaining to the matters before them ; that these experts report thereon to the court, and give in writing both their answers to and the questions submitted ; that a compensation by salary or fee be fixed by the law for their services ; that in either case the compensation should be liberal, and such as would amply repay any physician or surgeon for any loss of practice he might sustain thereby, or for time spent in such service ; that, as far as is practicable, the above body of experts embrace and relate to every branch of medical jurisprudence.

Your committee have not the presumption to think that any scheme of theirs will secure an entire uniformity of opinion among medical experts. While human nature is fallible and the human mind limited, so long will there be a diversity and contrariety of opinion not only among medical experts, but among all classes of experts and all manner of men. However, your committee believe that the above-suggested plan will remove many of the evils of our present Medical Expert Testimony and prevent the wholly unnecessary and inexcusable diversity of opinion and contradiction which exist therein. It will exclude and drive far from the witness-stand the incompetent and impudent quack, and hedge our courts and trials with a barrier that will resist and ever defeat the attempts of ignorance and effrontery.

In conclusion, your committee hope and believe that the society share with them at least one opinion—that the whole subject of Expert Medical Testimony deserves the utmost attention and the fullest and freest exchange of views ; and they **crave** pardon of the Society for the length of their report.

JOHN E. MCINTYRE, Chairman, etc.

JOHN SHRADY, M.D.

# EXPERT TESTIMONY

## AND THE FUNCTIONS OF EXPERTS.

(A Minority Report of the Committee on Expert Testimony, Etc.)

By DR. EDWARD C. MANN.

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In considering the paper of Dr. C. W. Wight, on Expert Testimony, as a member of the committee appointed by the President for that purpose, I have decided to put in a minority report, as I differ from Dr. Wight's ideas, as he has expressed them, respecting skilled testimony. The first conclusion Dr. Wight draws is this:

"From these illustrations emerges the conclusion that Expert Testimony—just so far forth as it contains the special knowledge of the witness, and is pertinent to the issue—is relevant, material, and may be essential to the ends of justice; but just so far as it is opinion, personal view or theory, it is irrelevant, immaterial, and may be mischievous." "Opinionated Expert Testimony is repugnant to justice, contrary to law, and alike intolerable to exalted science and true art." Dr. Wight also says: "The habit of allowing parties in litigation to select experts beforehand for their ascertained favorable opinions, and to bring them into court as partisan witnesses, is a desecration of the Temple of Justice;" and quotes Judge Davis, of Maine, as saying in the Neal case:—"If there is any kind of testimony that is not only of no value

—but even worse than that—it is, in my judgment, that of Medical Experts.”

Dr. Wight, it appears to me has, in his paper, completely ignored the exact purpose of skilled testimony in a judicial proceeding and the functions of an expert. He brings forward the time-worn objection to Expert Testimony, viz.: That as the experts are engaged by one or the other of the litigant parties, they thus necessarily testify under a bias, and consequently are not trustworthy. He implies that there is a distinct understanding as to what any given expert shall say before he has heard a word of the evidence on either side. He (Dr. Wight) implies by what he says that the jury are in a dilemma, as they think a given expert will tell only so much truth as will help his side of the case. An expert's opinion is worth money. The *ergo* of this Dr. Wight says is that his opinions are corruptly bought. Can Dr. Wight explain why a fair reward for professional opinion should obscure an expert's perception of truth? Experts, necessarily, according to the present-law, testify in the interest of a party; but that fact does not, to me, imply an unworthy bias. The counsel lay before the expert the evidence to be produced before him, as far as they can; and the honest expert invariably tells the counsel either that if he can prove the facts as he states them, he has a good cause; or he tells him that, even if he does prove such facts, they would not warrant the construction he wishes to put upon them, and that his—the expert's—testimony would not help him. Generally speaking, if an expert's testimony is wholly and unconditionally in favor of one side only, it is merely because this result is warranted by the facts. An honest expert will, moreover, warn the counsel that the evidence, as brought out

on trial, may oblige him to modify his opinion, or even abandon it.

Now, what is an Expert and what are his functions? An Expert is one who gives his time and attention entirely to a particular pursuit, and he is therefore to be recognized as an expert in questions pertaining to that pursuit, to the exclusion of those who have attended to it incidentally, as a subordinate part of a more general department of inquiry.

The functions of an expert are precisely what Dr. Wight does not wish them to be, namely, to appear in court to give an *opinion*, based either on his acquaintance with the party whose mental or physical condition is under investigation, or upon a medical examination of him which he has made, or upon a hypothetical case stated to him in court. The expert is wanted in court to give his opinion on facts proved, or upon a case hypothetically stated—an opinion, I should define, as stating it to be *the statement of what certain facts indicate to the expert himself*. Therefore, on a trial, I do not think an expert should give his opinion upon facts proved by a witness, unless he hears all the testimony of such witness. So far from endorsing Dr. Wight's view, that "opinion is irrelevant, immaterial," etc., I maintain that that is exactly what experts are asked to give in every State of this Union. If we eliminate impractical and visionary ideas and come down to actual facts in our laws, as they relate to-day to opinion evidence, we shall easily comprehend what an expert's duties are. On an action on a life insurance policy, the defense being suicide, I am called into court. A hypothetical question is put to me, in which I am to suppose a man who has stated his impulse to suicide, and who afterwards has taken his life. I am told that this man presented great depression

of spirits and that his eyes were wild and glaring. I am now asked, "What, in your *opinion*, was the condition of the mind at the time of his death—sane or insane?" My *opinion* is what is wanted. The old practice where the expert heard all the evidence given at the trial, and then was asked for his opinion, founded on that evidence—supposing it to be true—was, I think, better calculated to elicit a well-considered opinion than the new change, where the counsel on each side, out of the facts that have appeared in evidence, construct a hypothetical case as fairly as will best serve their purpose, and no more so.

I would call Dr. Wight's attention to the fact, and that of this Society, that in such cases the expert may be obliged to assent to the propositions of both sides, and thus apparently stultify himself. This is due to the twisting and coloring of facts. Secondly, the manner in which an expert's opinion is elicited is often very wrong and insulting, and deliberately calculated to overwhelm it with discredit. Able counsel use all their professional astuteness to deprive of its proper weight with the jury the most honest and truthful expression of opinion; and if we had a healthier public sentiment which would make the Judge keep a cross-examination within its proper limits and restrain the license of counsel, Dr. Wight and other writers would have less reason for distrusting and sneering at Expert Testimony. I do not consider that, in his paper, Dr. Wight has properly discriminated between the claims of true science and the pretensions of mere charlatan-ism. A Board of Experts or a State Lunacy Commission we certainly need, so that we can have skilled testimony free from the objections made against it as it is usually obtained; not to be given in the interest of one party or another,



unbiased by any pecuniary arrangements, the well matured conclusions of a calm, deliberate, thorough investigation; and the sooner the Executive appoints such a Commission, or the Judge of the Court of Appeals, the better for New York State. To-day, the poor and friendless is quite unable to cope with the wealthy in providing experts to prove his innocence. I doubt the practicability of this Board of Experts alone being allowed to give evidence. Their evidence will carry the most weight with it; but I think all the lawyers will insist that we are trying to limit the sources of information in a manner repugnant to the spirit of our judicial system, and I do not believe we can pass such a bill at Albany. I think we can, as a Society, inaugurate a lunacy reform and get a State Board of Experts appointed; but if we include the whole range of experts in every trade and profession, we shall accomplish nothing practical. If it is not now the law I should propose as an amendment to any bill going from this Society, that in any new law enacted at Albany, it should be provided as long as litigants still introduce their own experts, as I believe they will do, whether we get a State Board appointed or not, *the qualifications of a witness to testify as an expert are to be decided by the Trial Court, whose decision should not be reviewable on appeal.* The Judge's question to determine whether a witness offered as an expert has the legal qualification to entitle him to testify as such, should then be: "Do you give your time and attention entirely to a particular branch of medicine, and is that mental or psychological medicine?" This and nothing else (viz.: that the entire time and attention shall be devoted to a special pursuit) is needed to constitute an expert in mental medicine or in any other branch of medicine or

science. He should then, in any given case, give his opinion in the case from the examination he has made; his observation, experience and professional reading. He necessarily forms an opinion from this combination. The same bill should provide that the testimony of the State Board, when one is formed, should be given in writing and read to the jury. It would then be deliberately prepared, its explanations well considered, and its full force and bearing clearly discerned by the jury. Neither party's counsel, by its astuteness, could embarrass this Board of Experts or their written testimony. There is no obstacle to this Board, and it remains for this Society to have, if they will, the honor and credit of forming it.

Finally, I desire to record my emphatic protest against the erroneous views of insanity inculcated by the new code of New York. This code entirely ignores the actual state of our knowledge of insanity, and is worthy to be the product of a century ago, when statutes were framed and principles of law laid down regulating the legal relations of the insane, long before physicians had obtained any accurate ideas respecting mental disease. According to this code, no person can be really insane if he or she appreciate the difference between right and wrong. *This is crude, imperfect, wrong and unjust* in the highest degree. It is a notion which, so far from being consecrated by age, has been rendered ridiculous by the results of extensive and well-conducted inquiries, and the attainment of correct ideas as to the diseased manifestations of mind. I can see no reason for viewing with reverence the opinions and practices of our ancestors, based on an imperfect knowledge of insanity. The Code of New York should be altered as soon as practicable, for, as it now

stands, it is a monumental mistake in obstinately rejecting the truths of Mental Pathology. If a knowledge, right and wrong, is to be considered an essential character of insanity, then much the larger proportion of those committed to asylums are sent unjustly and held unjustly, and ought to be liberated at once. The insane are, for the most part, perfectly rational on some topics, and in some relations of life, whether the law chooses them to be so or not. Disease does not obey the mandates of human law; it acts in obedience to natural laws. There is no excuse to-day for erroneous notions of the nature of insanity, and it is remarkable that such an absurd test of insanity could have found its way into the Code which regulates the medical jurisprudence of insanity in this State. Such ideas, if carried out to their legitimate conclusion, will carry us back to the barbarities of the past, and a repetition of Higginson cases, where Justice Maule said that if the prisoner knew right from wrong, he was responsible for killing his little son by burying him alive; although he was of weak intellect. We have seen enough of persons of doubtful sanity ending their lives on the scaffold, and it is only common humanity that madness, without limit or condition, should be exempt from the punishment of criminal acts. If such insanity only as is attended by total deprivation of the knowledge of right and wrong can be admitted in excuse for crime, then the height of ignorance and presumption has been reached, *for there are few insane minds who are entirely deprived of this power of moral discernment, and who are not on many subjects perfectly rational.* The highest legal authorities have never, to this day, come to understand the psychological truth *that abstract conceptions of crime are not necessarily perverted by the influence of mental dis-*

*ease, while in respect to particular criminal acts the insane man often thinks that what he does is right and meritorious. In the United States, the law of insanity relative to criminal cases is loose, vacillating and greatly behind the present state of our knowledge of mental disease. We would advise a course of Haslam, Conolly, Hoffman, George and Ray to educate Legislators for the proper reform of the Code.*

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I cannot concur, wholly, with either the majority or minority report, made upon this subject. I have not had time to frame my own views in the shape of a report. I make this statement in explanation of my position as a member of this committee.

B. A. WILLIS.

# JURY TRIAL OF THE INSANE.\*

By R. L. PARSONS, M.D., OF SING SING, N. Y.

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During the last session of the New York State Legislature no less than three different Lunacy Bills were urged upon the attention of the Assembly.

The first of these bills, which was introduced by a legal member from Brooklyn, had for its sole object the enforcement of a trial by jury, and their affirmative decision in the case of any and all alleged lunatics before they can be removed from their homes and placed in a hospital or other establishment for care and treatment. The Lunacy Bill drawn up by a committee of the Medico-Legal Society had the same provision in the original draft. On account of the earnest opposition of a medical member, this provision was finally left out; but one of the most learned jurists of the Society, who was a supporter of the original draft, refused to support the amended draft, because the provision for a jury trial, which he considered the most important of all, had been rescinded. An adverse criticism of the jury trial feature of the proposed laws was sent to the Medico-Legal Journal for publication, when a leading member of the publication committee ventured the remark that the method of procedure had been in practice in the state of Illinois for a number of years; and that, inasmuch as to the best of his

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\* Read before the Medico-Legal Society, September 12th., 1883.



knowledge, no serious objection had been made to the law, it might fairly be assumed that it was satisfactory.

These facts prove the existence of a somewhat widespread feeling in favor of the jury trial method of procedure ; and also make it probable that renewed efforts will be made for the enactment of the measure. But the objections to the method are so many, and so serious in character, that its merits and demerits should be thoroughly discussed and understood, lest an unwise and oppressive law be enacted through lack of appreciation of its real character and necessary effect. This is the more important inasmuch as it is oftentimes more difficult to secure the repeal of bad laws, which have their origin in ill-founded, or unfounded, fears, than it was to secure their enactment.

There can be but one really substantial, or even plausible reason for the enactment of the law in question ; that is the protection of the sane, the prevention of their incarceration as lunatics through malice, or through lack of ability to make a correct diagnosis of their mental condition. The insane might be injured, but certainly could receive no benefit from a jury trial.

There seems to be a popular belief to the effect that persons of sound mind are not unfrequently placed in asylums for the insane, by malicious and interested parties, through selfish motives ; as to gain possession, or the control, of their property, to avoid annoyance, or to avoid the burden of their support. The fact that inmates of asylums are sometimes brought into court on a writ of *habeas corpus* with the object of securing their discharge as persons of sound mind, and that they sometimes are thus discharged, serves as a basis for this belief. The fact that persons duly committed to

asylums as insane are sometimes discharged by the Medical Superintendents as improper subjects serves to strengthen the belief. It is not altogether surprising that people of a suspicious turn of mind who are cognizant of these facts should greatly exaggerate the danger, and finally come to think that under existing laws almost any one might be seized and shut up as a lunatic.

But the great majority of those who are discharged under a writ of *habeas corpus* soon afterwards, or even at the very moment of their discharge, manifest unmistakable evidences of insanity. Dangerous lunatics have thus been declared sane by lay juries of more than average intelligence, and even by eminent judges, in opposition to the opinions of physicians of experience in diseases of the mind. It should not be forgotten in this connection that a writ of *habeas corpus* may issue when the patient has already nearly recovered, and hence that the finding of sanity, although apparently true, may prove nothing.

Of the very considerable number of persons who are discharged from asylums for the insane as improper subjects, almost all have manifested symptoms strongly indicative of insanity at the time of their commitment. A more prolonged investigation, especially if conducted by experienced alienists, would undoubtedly lead to a more correct diagnosis in a majority if not in all of the cases ; but juries, lawyers, courts, and judges certainly would do no better. The delay caused by a jury trial might lead to a different result, as delay caused in any other way might do. But such delays might be and often would be highly prejudicial to those who were really insane, while the mistake of deciding that a sane person who appeared and acted like a lunatic really was a

lunatic would do little harm, and might even be of great service.

Of the many cases, more than one hundred in number, who were discharged from the New York City Lunatic Asylum as improper subjects, during a series of consecutive years, there was evidence of improper motives in only a single one. In this case the alleged lunatic had conducted in such an outrageous manner in the presence of the family physician that he believed the man to be insane, and for the safety of the family advised that he be sent to an asylum. The family acquiesced in the physician's view of the case, although they were well aware that the conduct on which the physician had based his opinion was merely the evidence of an irascible and ungovernable temper, from exhibitions of which they had often suffered for the twenty years before. The physician, however, was undoubtedly sincere in making the diagnosis of insanity, and the alleged lunatic really had no just reason to complain of being judged in accordance with his conduct. Indeed the plea of insanity would have been the best excuse he could have made if his acts had become criminal instead of being merely outrageous.

It is quite possible that changes might be made in our existing laws, which would render the method of investigation of cases of lunacy more thorough and exact and less liable to mistake than it now is. Still it should be borne in mind that the Lunacy Laws of the State of New York, regarding the commitment of the insane to asylums is more stringent in all essential particulars than the laws of Great Britain are; and more efficient for the protection of the sane than the laws of any other of the United States. Our present laws require that examiners in lunacy should have had three years' exper-

ience in the practice of medicine after graduation, that they should be reputable physicians and that they should be formally approved as such examiners on the ground of these qualifications by a judge of competent jurisdiction. The examiners are required among other things to make a formal written statement of the facts on which their diagnosis of insanity is based, over their signature and affidavit. Furthermore, before the alleged lunatic is fully committed as insane, these papers must be presented to a judge of a Court of Record and be formally approved by him on the grounds of the facts stated, and the ability and character of the examiners. If he should be in doubt regarding the legality of the forms, or the verity or sufficiency of the facts stated, the judge is required to withhold his approval; or he may order the presentation of such further evidence as may serve to satisfy his doubts.

Here certainly would seem to be sufficient protection for the sane against possible commitment as lunatics, without taking into account the safeguards against their continued detention, such as the examination and diagnosis of asylum physicians and the inspection of Lunacy Commissioners. Since juries, however, are required to find a verdict of acquittal in all cases of doubt, it is not impossible that they might include some sane men in their acquittals who would have been considered insane by medical examiners. But on the other hand they would be much more likely to make a false diagnosis of insanity on account of excentricities, the true nature and bearing of which they would be unable to understand. The fact is that juries in the State of Illinois have often made such mistakes. Dr. Dewey, Medical Superintendent of the Illinois State Asylum, at Kankakee, in an



article published in the *Chicago Tribune* on the method of determining the question of insanity by a jury trial, writes as follows, viz: "Numerous cases might be cited from the records of the State Insane Asylums in which (a) persons not insane have been declared so. Seven of this kind have occurred since the Northern Hospital at Elgin was opened. (b) Insane persons have been declared not insane. (c) The same person has been declared at one trial sane, and again within a few days, or weeks, or months, tried again and found insane, and this without any special change in the patient. Six cases of this kind have come to light among the patients at the Northern Hospital. It may well be doubted whether a parallel to this can be found in the records of any similar establishment in any other State covering the same length of time."

It would seem to be fairly established then, both by theory and by practice, that the jury trial system of investigating the question of insanity affords at the best no better protection for the sane than the ordinary methods of investigation by medical examiners does.

Under any system of investigation there is really much more likelihood of a failure to detect insanity when it exists than there is of mistaking a sane man for a lunatic; while the evil consequences of a mistake are liable to be much more serious in the former case than in the latter. There is no danger that a sane man will do injury to himself, to his relatives or to his estate by reason of his sanity; and if he be declared insane through malice or mistake the proper redress or remedy is likely to be applied before serious damage has been done to his estate. If any one is to suffer in reputation it will be those who have made the mistake or



have done the injustice. But the instances are very frequent indeed in which lunatics whose insanity was not detected or who were supposed to be harmless have killed themselves, or butchered their relatives, or squandered their property.

The jury trial method of making out the diagnosis of insanity is, at the best, very inadequate for the purpose. The diagnosis, especially during the early stages when watchful care and treatment are of most importance, is often difficult, and requires the ability and experience of men who have been specially trained in the making of such enquiries. The diagnosis of insanity lies as much within the sphere of training and experience of physicians as its treatment, or as the diagnosis and treatment of any other disease does. If the claim be made that petit juries can or will make more correct findings in cases of alleged lunacy than physicians would, it may be claimed with equal assurance that they would make a more correct diagnosis in a case of small-pox, or of fever ; and that such patients shall have the advantages of a jury trial before being sent to a hospital for care and treatment. The placing of one or more physicians on the jury would not increase the advantages of the method. The physicians would either impose their views upon the rest of the jury through a laudable professional pride, and a consciousness that the lay members were really unfitted to undertake an investigation of the subject ; or, as would perhaps be even more likely, the lay members would assume that they had been selected for the important duty of deciding on the facts, in cases of alleged insanity, because their sturdy common sense rendered them peculiarly fitted for the service, and so would underrate or ignore the opinions of the doctors.

The objections already made apply to juries of the most

conscientious and intelligent men in the community. But as a matter of fact the juries would rarely be composed of such men ; but rather, in some part at least, of professional jurymen, of cranks, of men who have pet theories of their own on the subject of insanity, or of men who are curious to observe the aberrations of the insane, such as those who when they visit asylums ask to be shown the worst cases, and if they succeed in seeing them, are disappointed because they do not find them as bad as they imagined. The most competent physicians would endeavor to avoid such an unpleasant and incongruous duty, and so as a general rule would not serve.

The advantage to the people of trial by a jury of their peers does not consist in the superior intelligence and ability of twelve jurymen who have been chosen by lot from the common mass ; but rather in the fact that these jurymen, in an important sense, stand between the people and the majesty of the law, or between the people and the possible oppressions of the wealthy and the powerful few. The natural sympathies of jurymen thus chosen are with the weak and on the side of mercy. If the jurymen have a reasonable doubt of the guilt of the accused, even although this reasonable doubt may arise from their own ignorance or lack of ability, they are instructed to give the accused the benefit of the doubt and bring in a verdict of "not guilty." But when the fact to be determined is not one of guilt, or of equity between the weak and the powerful, but whether there is disease of the body or the mind, it is most merciful and humane to make use of the means best adapted to find out the earliest beginnings of the disease, if it exists, to the end that the proper measures may be taken for a cure. A

petit jury certainly is not well adapted to judge of such facts, and its employment for such a purpose is not in the interest of truth, of justice, or of mercy.

Certain objections to the jury trial system of the insane are so well expressed by Dr. Andrew McFarland that the following quotations are made from his reply to my enquiries on the subject, viz. : "The Illinois law of which you inquire is injurious, odious, barbarous, damnable, and you may add as many more expletives to it as you please and still not say the truth in regard to its evils. Your questions naturally suggest their own answers, and every evil which the questions involve is felt to the full. And yet I don't think your scope of inquiry comprehends what we find the prime evil of all. The operation of the law in this State, (Illinois,) is perceptibly changing in the common mind the whole idea of the insane subject in his relation to treatment in an institution. The jury material picked up in the purlieus of court houses is now universally controlled by the idea that insanity is a charged offence and the hospital a penalty—the whole affair one of prosecution and defense. The working of the matter I may illustrate. A court some forty miles from here (Jacksonville,) refused to find a verdict in a plain case. The next day the patient was brought to me under the error that no verdict was needed in a private institution. In talking with the man who brought the patient, I learned with natural surprise, that he was one of the jurymen who had held out against returning a verdict of insanity, the day before, 'How's this?' said I, remarking the inconsistency. 'Oh! the man's crazy fast enough; but we couldn't find out that he'd done anything bad enough to be sent to the hospital for.' That answer explains what I believe is now almost universally the

jury attitude—the point to be adjudicated being simply *offense* and *penalty*, with all the leanings of course towards ‘acquittal,’ as the phrase is used.

“Going with this is another consequent evil which I view with still greater apprehension. It is the almost complete ignoring of medical testimony. A medical man who should bring into court any suspicion of science, or tincture of specialty of knowledge, had better carry his wares to some other market. He is certain to be snubbed, ignored, and most incontinently ‘*sat down on.*’ A missionary clergyman in this city, away from home most of the time, had a fourteen year old daughter with extreme nymphomania—a desperate case, with every base instinct heightened to its extreme—profane, obscene and shockingly abusive of her parents. As the father’s only resort, he applied to the Court, but the jury refused to find insanity, although the most eminent physician in the city was one of the jury and all right himself. In the father’s despair he came to me; I fancied perhaps that evidence had not been forcibly presented, and advised another trial, which was granted next day. A leading jurymen took the ground that the conduct of the girl was simply retaliatory of provocation by parents; that their training had been too ‘Calvinistic’ for the girl’s taste; they watched her too much; were too strict with her, &c., &c. My own testimony, I soon found, injured the case more than helped. The ‘vindicated’ girl plunged at once into the wildest career of vice, and ended by suicide before she was twenty. Then there was plenty of cursing of that jury; but the multitude of such cases works no change. Now, every Superintendent of an Asylum in the State is most eloquently pleading for a change in this detestable system; the Board of State

Charities urges the change most forcibly ; a bill is before the Legislature, reported favorably upon ; the Chairman of the Judiciary Committee is a true champion of the reform ; but all, as I fear, will amount to nothing, because there are a few fanatics who raise the hue and cry over an imaginary bug-bear."

Thus far the principal objections which have been urged to the system of trial by jury, for the purpose of ascertaining and deciding upon the existence of insanity, have been on the grounds that such a method would not protect the sane would be inadequate to the proper investigation of this, or indeed of any other medical question, that it would cause erroneous and harmful views in the common mind on the subject of insanity and its treatment, and that it would bring about a feeling of distrust of physicians in relation to the diagnosis and treatment of insanity.

The main objection is, however, that such a method would be so highly prejudicial to the interests of the insane themselves that it ought to be rejected, even if the points already discussed were in favor of rather than against the method.

The jury trial process, or indeed any publicity whatever, is exceedingly repugnant to the friends of the unfortunate person who becomes insane. They instinctively have a feeling that the disease is a weakness which should be concealed from the public view. They wish to shield their relative, and they wish to shield themselves and their family from the suspicion of having a cognate weakness. They fear lest a public knowledge of their relative's insanity, which they hope will be temporary in character, may injure his prospects in life after recovery ; or they fear lest such publicity may injure



the prospects of members of the family who have never been and may not be liable to become insane. These fears are not entirely without foundation. At all events they arise from the better feelings of our nature and should be respected. As a general rule, the friends of an insane person avoid publicity to the utmost extent possible. If the process of removal from home for treatment be such as to cause publicity, as a jury trial would do to an odious extent, hospital treatment would be delayed in many, if not in a majority of cases, until the prospects of recovery had been seriously compromised.

The process of a jury trial in itself would oftentimes be a cause of serious delay ; especially in cases of acute insanity, or in which the court was at a distance.

In many cases, the process of transfer to court, and the incidents of the trial would be so great a tax on the physical powers as to endanger the life of the patient. In a still greater degree would such a tax endanger the prospects of recovery.

Not a few of the insane would be seriously injured by their appearance at court in the role of defendant and by the incidents of the trial. Some would be dangerously excited through fears about proceedings which they could not comprehend. Others would have their insane delusions confirmed by the arguments of advocates to prove their sanity, and by the apparent or real division of opinion which would be evident to them about their case. Many would get a fixed idea that they had been brought to court under some sort of criminal charge. Being conscious of their innocence of crime, they would think their commitment to a hospital an outrage or a mistake ; looking upon the hospital as a place

of punishment and their detention as an act of gross injustice, by which they would be irritated and against which they would rebel.

It will readily be granted that many insane persons would not be seriously injured by a jury trial ; as those who were in good health, and were too stupid or too absorbed to observe much of what was going on about them ; or those self-satisfied monomanics who interpret whatever happens to their own advantage. But a jury trial could be of no possible benefit to such patients, while it would be of incalculable harm to many others. The interests of those who would be harmed by the trial entirely overshadow the supposed interests of the sane.

Although the arguments which have been adduced against a jury trial of the insane, apply for the most part to the trial as a legal method of placing lunatics in hospitals for care and treatment, many of these arguments and reasons are equally cogent against such trials as a means of ascertaining and deciding upon the mental status of the alleged lunatic or dement for any other purpose.

In order to ascertain the views and experience of Medical Superintendents of Asylums for the insane in the State of Illinois, regarding the diagnosis of insanity through the agency of petit juries, with especial reference to the influence of the trial on the insane defendants, the following letter was addressed to each of the Superintendents, and also to Dr. J. S. Jewell, a physician of Chicago, who is well known for his great erudition and large experience as an alienist, viz.:

Dear Doctor :—Will you favor me with your views in general regarding the Illinois method of placing the insane in hospitals through the intervention of a jury, and also on the following points, to wit :

1. Do friends of patients favor the method when they speak of it in comparison with less obtrusive methods of which they are cognizant?

2. Are some patients annoyed, excited, or otherwise injured by the method of procedure?

3. Is it your opinion that the early placing of insane patients under hospital treatment is in any degree hindered by the Illinois method of procedure?

4. All things considered, is it your opinion that the interests of the insane are promoted, or hindered, by the Illinois jury system of commitment?

The answers were unanimous and emphatic in deprecation of the law in question; and the only one from whom no reply was received has elsewhere expressed the same opinion in his writings. The Rev. Fred. H. Wines, Secretary, and William A. Grimshaw, Esq., member of the Illinois Board of Health, have published similar opinions. They object to the system not only on the ground of its injurious effect upon the insane, but also almost if not quite as strongly on other grounds.

Mr. Grimshaw writes as follows: "Is it not possible, that in practice, under the existing law of Illinois, one physician on the jury, and that one, perhaps, not a man versed deeply in his profession, or skilled in mental pathology, controls the verdict or determines the whole question submitted to the jury? or more physicians are summoned as witnesses to establish the fact of insanity? It is obvious then that the medical man on the jury, or the medical witness or witnesses, in most cases determine what is the condition of the patient or individual whose sanity is on trial. If the question of sanity or insanity is a medical question, why should we not

refer its decision, under proper rules, restrictions and safeguards, in the first instance to medical men."

Again: "In practice numerous cases have arisen, showing the injurious and sometimes fatal excitement incident to a jury trial. We believe that in the majority of cases, especially of females, the trial before a jury, with the publicity given thereto, and all the formula of serving a summons by an officer of the law, and the attendance for the first time of the subject of the trial at a court-house, is highly detrimental, and may be fatal."

Again: "We have known, in one county at least, two cases of males who were tried before juries, and upon the first trial the juries failed to find the men insane; subsequent trials proved each of them to be insane in a high degree, \* \* It was the opinion of medical men and experts, that the public trial of both the men referred to was injurious to them; and in one instance the highest type of mania was developed, and early death ensued."

Mr. Wines writes as follows regarding the alleged danger of being shut up as lunatics, to which sane men are said to be exposed: "If we turn from the argument *a priori* to consider that derived from experience, it must be said that nearly all the alleged cases of false imprisonment in hospitals for the insane prove, upon examination, to be cases in which the sanity of the party supposed to have been wronged is at least doubtful. And the list of cases of this description is by no means a long one, in comparison with the number of hospitals and their inmates.

"We do not see that whatever peril of false imprisonment may exist is attributable in any very large degree to the mode of inquest whatever it may be. If the insane hospital,



an institution believed to be in an eminent degree humane and necessary, is a menace to the liberty of the citizen, it is so under any form of inquest, since any investigation of his mental state may result in finding him to be insane, and this finding may not be in accordance with the fact. \* \* \*

Again: "If the inquest is to be so organized and conducted as to discourage the friends of persons actually insane from availing themselves of the benefits of the hospital in the early stage of the disease, and so to interpose a barrier between our State hospitals and the very persons for whose benefit they have been established, the primary object of this inquest has been defeated. Through our excessive and selfish zeal for the rights of the sane, the rights of the insane are, if not forgotten, at least not adequately guarded. The result is an increase of insanity in the community, with all that that implies—a peril far more active and insidious than the almost imaginary danger which excites our apprehension."

Again: "In the practical administration of this law, instances of peculiar hardships sometimes occur. A delicate woman, for example, a case of puerperal insanity, is dragged from her bed in winter, across the country, to the county-seat, and carried into the court-room, more dead than alive, before she can be taken to the hospital. Other cases are farcical, as where the court, to save the feelings of the patient, and prevent him from knowing that he is on trial, veils the proceeding under some flimsy pretence of a social gathering and friendly talk. The effect of the trial upon the patient is often terrible. He is impressed with the conviction that he has committed some crime, he knows not what; he believes himself to be consigned to a prison; possibly he



has a sense of having been dealt with unjustly and foully wronged ; he looks upon the officers of the hospital as conspirators in a plot ; it is long before this suspicion of them can be removed.

“The best place in which to gain a knowledge of the practical working of our present law is the city of Chicago. There the number of cases coming before the county court for decision is so great that a particular morning in the week is devoted to them. Thursday is known as ‘Insane Day,’ and on Friday the morning papers print regularly a synopsis of the proceedings and of the testimony, often under some sensational heading, and not only with the names of unfortunates, but their residences, giving street and number. We clip at random from a Chicago paper an account of one of these Thursday mornings in the county court. The reader will remark the style in which the report is written and remember that the court-room is open to the public, and judge for himself what class of spectators are likely to be attracted by the proceedings :

“ ‘ *De Lunatico—An array of Alleged Insane People on Trial in the County Court—Insane Day.*

‘Judge Loomis and two or three juries passed upon eighteen insane cases yesterday. The ante-room was crowded with candidates for the lunatic asylum and with witnesses. The cases were worked off with great rapidity, and in only two cases was anything of special interest elicited during the examination. The following is a summary of the proceedings :

‘M—— Z——, a friendless Polish girl, 19 years old, presented a case for the sympathy and consideration of court and jury. Dr. B—— pronounced her case one of hysterio-mania. The patient imagines that every one wants to kill her, and laughs and cries for terror twelve hours without interruption.

'I—— D—— was found not insane. But as he is most violent at times, and dangerous not only to himself, but to the community, the court promptly entertained a motion for a *new trial*, and continued the case until next week.

'E—— D——, a pretty girl of 26, who lives with her parents at No. — — street, was tried twice. The first jury found her not insane, but the court *set the verdict aside*, as it appeared that one of the jurors had had some trouble with her brother, one of the witnesses, and was prejudiced against him. This same juror was a knowing fellow, and displayed his knowledge by asking Dr. B. if suicide meant *killing some one else*. He didn't think any insane person should be sent to a hospital for treatment, unless that person was liable to kill some one. Miss D—— showed by her actions that she was demented. She had had hysterics for years and was very melancholy. She had tried to buy laudanum at drug stores, with the view, as was supposed, of committing suicide. Some time ago she was a teacher, and the loss of her school and over-study were assigned as the causes of her mental state. The second jury found that she was insane.' (And other cases).

"Is it a matter of wonder that the friends of the insane men and women whose peculiarities are thus held up to public ridicule, shrink from the ordeal; that they have no confidence in it as a test of the mental condition of their loved ones; and that they desire a change in the law, in order that others may be spared the anguish which they have endured?"

Dr. Carriel, Medical Superintendent of the State Asylum at Jacksonville, writes as follows: "It is probably in the experience of every Superintendent in this State, as it certainly has been in mine, to notice how many have been deterred from making application for their friend's admission to a hospital, on account of the laws of the State requiring a

public trial, a judge, jury and lawyers, just as in a criminal proceeding. \* \* \* \* We live in hope that even in this State the day will come when the liberties of her sick and afflicted may be thought safe in the hands of the medical profession, whose prerogative it shall be to decide the question of the necessity or desirability of commitment to a hospital; then will one source of chronic insanity be removed."

Again: "As Superintendent of one of the Insane Hospitals of this State, the working of the law is satisfactory, and there are many features about it a Superintendent likes, so far as he is personally concerned. So far as the interests of the insane are concerned I hardly know of one redeeming feature in our method."

The views of Dr. Andrew M. McFarland, formerly Medical Superintendent of the State Asylum at Jacksonville, and now in charge of a private Retreat, have already been quoted in opposition to the Illinois law.

Dr. H. Wardner, Superintendent of the Southern Hospital at Anna, writes as follows, to wit:

"In reply to your questions under date of May 26th, I would say as follows:

"1. A considerable proportion of patients' friends dread the exposure of a jury trial and often try to avoid it. This is the case more particularly with sensitive and refined people.

"2. Some patients are greatly injured by the jury process; especially is such the case in puerperal cases. We received one young woman a week after confinement, who was carted ten miles across the country to the Court House for trial, who died the next day or two after admission.

"3. There is generally, or in a large number of cases, improper delay in placing patients under treatment, both on account of the dread of a public examination and on account of the expense incurred; and sometimes the juries, from some influence, fail to render a verdict of insanity in face of the facts.

"4. The interests of the insane are often hindered in consequence of the law."

Dr. R. P. Dewey, Superintendent of the Asylum at Kankakee, Ill., writes as follows, to wit:

"As to the jury trial for all insane persons, required by the laws of Illinois in every case, there are various objections to this mode of establishing insanity as an invariable rule. In the first place it is identical in nearly all points with criminal procedure. The insane person is 'arrested,' 'accused,' 'tried,' 'convicted' and 'sentenced,' substantially as if a criminal. An unfortunate influence is thus exerted on many of the insane, which is constantly apparent among the patients in our hospitals, an undue proportion of whom are impressed with the idea that they are unjustly accused of some crime, and tyrannically held in confinement. By making the process also an inquest in open court, compelling the presence of the prisoner, and the public delivery of all testimony matters which should remain private, are often forced into publicity without any good end being subserved. It would appear to be a natural right of the insane and their friends and families to be shielded in their misfortune from the public comment and gaze."

Again: "Mischief results from this state of affairs in many ways. The friends of the insane hesitate long before taking the disagreeable steps necessary to the treatment of the



patient in any asylum, and by far the most valuable time for beneficial treatment is lost; the insanity frequently becomes chronic and hopeless, and its victim a life-long burden upon family or State. Considerable numbers of the insane, who are able to do so, go to other States for treatment. The best feelings of all right-minded persons are outraged by seeing presented in court the depraved and unnatural acts and speech of otherwise reputable men and women. The testimony is apt to be of a peculiarly delicate nature." Dr. Dewey writes much more to the same effect.

Dr. Edwin A. Kilbourne, Medical Superintendent of the Asylum for the Insane at Elgin, Illinois, has expressed similar views in his annual report for 1878.

Dr. R. J. Patterson writes as follows: "If our lawmakers had desired with malice aforethought to invent an instrument of torture to insane persons and their friends, they could not have succeeded better than in the enacting of the present law. The law in its practical working is brutal and infernal.

"The friends of patients detest and abhor the law, and in almost every instance seek to evade it.

"Many patients who have susceptibilities and perceptions left become much disturbed and excited; all who are not demented feel it more or less, and those who are demented certainly do not need a jury trial.

"Insane persons, as a rule, are most likely to recover under *early* treatment in a well regulated hospital. The Illinois law is a hindrance to such early commitment and treatment. The friends of a patient refuse to take him into open court, as required by our law, until absolutely driven to it. The quiet, undemonstrative and harmless patients are



very largely detained at home until the case becomes chronic and incurable. Patients are often removed to other States to avoid the jury trial, which is hateful to all persons interested.

"The interests of the insane are in no wise promoted, but are hindered vitally. In more than four hundred patients admitted to this small place, no one has willingly complied with the law, but all have sought to evade it."

Dr. J. S. Jewell writes as follows: "Many patients are annoyed and in my opinion made worse by the noisy public ordeal through which they must pass, according to the Illinois law.

"It is my opinion that one result of the Illinois law is to prevent in many cases the early commitment of patients to an asylum. I am certain of this. But in what *per cent.* of cases the result appears I do not know. I will say, however, it is my opinion the proportion of cases is so large as to excite surprise if it could be certainly known.

"As compared with other wiser laws now in force in other States as well as abroad, the Illinois law in question results in its operation in harm rather than benefit to the insane."

The remaining Medical Superintendents of the State have written in the same strain and to the same effect.

A remark made many years ago by The Right Honorable The Earl of Shaftesbury, that veteran in the advocacy of English Lunacy reforms, to the effect that the doors of Asylums for the Insane open within too easily and outwards with too great difficulty is still often quoted. The gentlemen who quote his Lordship's opinion so approvingly are probably not aware that an enlarged experience has given him reason greatly to modify his former opinion. In 1877, his

Lordship testified as follows before a Parliamentary Commission of Inquiry "*into the operation of the lunacy law, so far as regards the security afforded by it against violations of personal liberty.*" The answers of his Lordship and of other eminent alienists before the Commission are here quoted in order to show that their opinions in regard to the undesirability and danger of increasing the legal difficulties in the way of placing the insane in institutions for care and treatment, whether by subjecting them to a jury trial, or otherwise, substantially agree with the opinions already expressed and quoted in this paper, to wit:

"Q. Is it your Lordship's opinion that the admission of patients into asylums is now sufficiently guarded?"

"A. I think so."

"Q. Would you say the same with regard to their detention there? Is it not the case that they are sometimes kept there longer than is necessary?"

"A. I do not think they are so now. It was rather my opinion in 1859 that under some circumstances they may have been detained beyond the time that was absolutely necessary; but then I think a great deal was to be said in extenuation of that. It is a great responsibility to send out a patient upon the world, both with respect to the patient himself and in respect to society, before you are satisfied that he is cured, or, at any rate, in such a state that he can be safely trusted. Since 1859, I should very much modify the opinion I then gave."

His Lordship further testifies as follows, to wit:

"A. What I state shows the absolute necessity of great precaution; the absolute necessity of paying great attention to the earliest stage of the disorder, and though I could by

no means render admission into asylums more easy than it is. I most undoubtedly would not render it more difficult, because I am certain that society is in great danger. \* \* \* \* We have a duty to the patient and a duty to society. We have a duty to the patient to see that he is not needlessly and improperly shut up, but we have also a duty to society to see that persons who ought to be under care and treatment should be under care and treatment, and moreover that they should not be set at large before they can be considered safe to mix in society."

Again: after referring to the fact that ordinary observers do not appreciate nor notice the earlier symptoms of insanity, he continues as follows, to wit: "I have no particular suggestions of my own to make; I only give it as a striking fact, and one that should put us very much on our guard against juries, because they never deal with the matter unless there is an overt act, which overt act, ninety-nine cases out of one hundred, is a proof that the disorder is incurable."

"Q. Your Lordship has, I think, already expressed an opinion with regard to the intervention of public authority. Would you consider that the prospects of cure derived from placing a patient under early treatment would be considerably interfered with, if the laws were altered so as to necessitate the intervention of the magistrate in this country?"

"A. Most undoubtedly; the great fear in England of so many people is publicity, and anything that tends to bring the patient before the public and to make the case of a patient notorious would induce people to keep that patient so long as they could before they submitted him to the treatment of an asylum, or of a single house. It would interfere very materially with it."

“Q. On the whole your opinion is most decided that the intervention of the magistrate would be injurious to the person as regards his recovery, and no protection to him as regards his liberty?”

“A. None whatever; I think it would take away nine-tenths of the liberty he now has. I cannot conceive anything which to my mind would be worse. I will do anything I can to protect the patient, but I know, if I were to assent to what is proposed, I would consent to what would be irreparable injury.”

C. S. Percival, Secretary of the Commissioners of Lunacy, says: “In my opinion, the medical certificates are the most important safeguards to the personal liberty of the subject, and the present forms are sufficient.”

Mr. Wilkes, Commissioner in Lunacy, says: “The present law is quite sufficient to protect the liberty of the people.”

Dr. Lockhart Robertson would have, as a Commissioner, “a leading physician in the district (asylum district) to renew the medical certificates upon which the patient was originally committed.”

Dr. Bucknill says: “I think the principle should be to make the admission as easy as possible, to provide for early treatment.”

Dr. Maudsley “was strongly of the opinion that the present forms for the admission of private patients are quite sufficient, and if made more stringent, would operate injuriously to their early treatment and chances of recovery. \* \* \* If it is considered desirable, as I have heard suggested, that the medical officer go before some public officer before they are acted upon, it seems to me no public officials would be better qualified than the commissioners (of lunacy), to whom exact

copies are now sent within twenty-four hours. If the matter were really entered into in each case it would be a very anxious responsibility—a formidable matter to undertake—if not, it would become a mere matter of routine, which, adding to the publicity, and adding to the expense, and adding to the delay of getting a patient under care, would only make treatment more difficult than it is.”

“Q. You think that if there were more care taken, or more delay in committing or consigning patients to asylums, their cure would be more doubtful?”

“A. Undoubtedly ; there are two great objects to be kept in view with regard to the detention of patients : they are put under care, not only for their own safe custody, because they are dangerous to themselves and others, but another and most important object, if insanity is to be cured, is, that they be put under care for treatment, and early, because recoveries are entirely in proportion to the early stage in which treatment is adopted. If regulations are made more stringent than they are now—and indeed the present regulations operate, to some extent, in that direction—the friends of patients will, instead of sending them from home, as is most essential in a case of insanity—unlike in this respect other diseases—keep them at home under improper conditions, and so very much injure their chance of recovery. It is my experience, as a physician, that the friends shrink very much that [going through forms]. They dislike the supposed publicity of it ; they dislike the formally pronouncing him a lunatic ; and they will not remove him in consequence.”

Dr. Patterson, after making the greater part of the above quotations in an open letter to the Board of State Commissioners of Public Charities of the State of Illinois, remarks



as follows: "Those of the medical profession in the United States who have given most thought to the welfare of the insane, and who are, therefore, most entitled to hold opinions, substantially agree with the Earl of Shaftesbury, the English Lunacy Commissioner, and the medical profession in England and Scotland."

The design of this paper has been to show, not that the ordinary medical methods of investigating the fact of insanity, of placing the insane in asylums, of supervising their management, of assuring their release at the proper time, might not be improved in some respects, but simply to show that the method of trial by jury is in the nature of the case illy adapted to the purpose, would afford no substantial protection to the sane, and would be the inevitable cause of such grave injury to the insane as to render its employment unwise and atrociously inhumane, even if it were proved to accomplish the good results claimed of protecting the sane from false imprisonment.

## TRANSACTIONS OF SOCIETIES.

### THE MEDICO-LEGAL SOCIETY OF NEW YORK.

PRESIDENCY OF CLARK BELL, ESQ.

Session of June 6th, 1883. Minutes of meetings of April 4, 1883, and of May 2, 1883, were read and approved—On recommendation of the Executive Committee Henry J. Kelly, M.D., of New York, was elected a member. Contributions to the Library were announced by J. Clarke Thomas, M.D., 2 vols. of Beck's Medical Jurisprudence and eight volumes of Duncan's Annals of Medicine.

The chairman introduced Rev. Dr. R. Heber Newton, who read an essay upon "The obligations of Society toward the Insane."

The debate which followed was substantially as follows :

Dr. O'SULLIVAN—The little I may have to say is simply suggestion, as I have prepared no notes and have taken none. The suggestions are in a degree not new, but they open a feature in this society which I think is the beginning of a new era in its history. I suggested some time ago that a valuable acquisition to this Society would be clergymen ; and I believe that I had the honor of making the first suggestion of that kind, and to-night is the first occasion when we have had a paper from a clergyman.

This subject regarding the care of the insane is an immense subject, and the Reverend gentleman has scarcely broached it. The enumeration of the several types of insanity would take up the evening, and I do not care that gentlemen of the press should steal my thunder, as I intend to prepare a volume on that subject. It is not the care of the diseased

mind so much as the prevention of insanity, which presents the great problem, and that is the point upon which I thought our learned friend was going to enlighten us. The prospect of the coming generation is not at all encouraging. Our educational institutions are absolutely ignorant of physiological law. There is scarcely a day that we do not see men rushing along the street affected by some disturbance of the brain, without any restraint.

Dr. CHADSEY—The subject is one of great importance, and the suggestion that there should be guardians of the insane appointed by the municipalities for the control of the insane is a very important one. The sooner these municipalities appoint guardians who are not politicians, who will work without pay, and who will watch and care for the insane—and there are many in every city who would do it—the sooner will the condition of the insane be improved. This could be done if the Legislature would pass a law to that effect, and this society should recommend it. The object of our society is to do all the good we can, and if a committee were appointed to take the subject of appointing guardians for the insane into consideration during the summer, and report after the vacation has passed, I have no doubt we should have a respectful hearing next winter and could secure a good law to effect that end. I think it would advance very much the interests of our insane. It has been fifty-five years since I have been acquainted with insane institutions, and I know from my own knowledge that there are great wrongs perpetrated against the inmates of which the public never knows. In Governor Butler's investigation of the Alms Houses of Massachusetts good has been done, and investigation here would result in great improvement. Our science and legal science is imperfect in many particulars. We should recommend the passage of a law creating guardians of the insane to be appointed by every municipality.

(A resolution of thanks was then voted to the essayist, who was obliged to leave the session to catch a train to his residence.)

D. C. CALVIN—It seems to me a mockery for gentlemen to discuss so large, so interesting and so important a question as that which has been brought so eloquently, elaborately and ably before this society (perhaps the crowning measure which this society can initiate) in five minutes. I can only say this, that while on a former occasion I felt it to be my duty to protest against the spirit of a paper read before this society which seemed to have for its purpose the changing of the humane and wise presumption of innocence in favor of a prisoner accused of crime, it gives me special pleasure to speak of the temper, of the humane and Christian spirit, the generous treatment and the calling out of the better feelings and emotions of intelligent and civilized men, in behalf of the afflicted insane which has characterized this most admirable paper; and I regret exceedingly that I could not have so stated in the presence of the distinguished gentleman who has been kind enough to furnish that paper to the society. It seems to me that there are suggestions in it which may properly engage the attention of the society for an entire evening. Some suggestion should be made in respect to the bill which has been forwarded to the Legislature and which failed of adoption in the way of amendments embodying the main suggestions of the distinguished speaker to night. I only arose to say that a paper emanating from so eminent a source as Dr Heber Newton does not need my commendation, in respect to its eloquence, its polish, and its clearness, but I deem it my duty to show that it commended itself to my appreciation because of that noble and humane sentiment which vivified the whole paper.

The President, in introducing Dr. Alice Bennett, stated that she was physician in charge of the Female Department of the State Hospital for the Insane at Norristown, Pa., and the society would be very grateful if she would give some of her experiences in the management of the insane.

Dr. Alice Bennett then read a paper upon "The use of Mechanical Restraints in the Care and Treatment of the Insane."

Dr. E. C. MANN—I think the presence of this lady here this evening has been the strongest plea in favor of lunacy reform. It has for a long time been my opinion that every asylum should have a female physician connected with it, having full charge of the female wards. Men reason in the abstract; women reach results by intuition, and have more sympathy and forbearance. The paper was especially interesting to me in all its bearings. There are two opposite opinions upon this subject. Most of the asylum superintendents are in favor of more or less restraint, graded to the necessities of the patient. It is claimed by those who favor this view that we cannot have a non-restraining system as they do in Great Britain, because the type of insanity is much milder there, and the treatment of mania on the open air principle can be done there and not here. I think twenty-five per cent. of the patients in France and Italy and here are under restraint, and every recent visit would seem to show that restraint is of more use in France than here. A recent visit to four asylums in Paris disclosed that the use of restraining chairs tended to excite patients; if they got more excited they would go into one. In England and Scotland the results proved that patients are more quiet, and I claim that the shortness of the stage of mania is owing to the absence of restraints. There is a pent-up force and it must show itself in action or feeling, and the patient is not nearly so apt to exhibit it in the latter form as in action. I suppose the clergyman who read the able paper would attribute the results of the non-restraining system to the beneficent influence of nature. In our own country, I think that the argument of some gentlemen can be combatted by the experience of a few asylums which have adopted a non-restraining system. I would not want to see a more orderly sort of people than in the Kings County Asylum, and there is not a camisole in the house, and its inmates represent the dregs of society. There are two diametrically opposite opinions held by very able people, and it may be true that these appliances have a



beneficial effect owing to the temperament of our people. I do not believe that in a majority of cases we should get a much more rapid recovery through the non-restraining system than by restraining patients. I have been very much interested in the paper and only wish that there would be more such read before the society.

MR. D. C. CALVIN—I only desire to say that I have been very much delighted with the paper and the spirit which it manifested, and the only apprehension that I would desire to suggest in respect to it, and perhaps that has been somewhat dissipated by the remarks of Dr. Mann, is that God in his infinite wisdom has created but very few such women as she who has poured out her heart to us, and has manifested her sympathy for fallen humanity in the Pennsylvania Asylum to which she has referred, but I have no doubt that we have been in the habit of restraining with a degree of severity those who would have been greatly benefited by kindness and appreciation and consideration. When persons become insane they do not cease to be human, and they generally have the characteristics of humanity and some of the finer feelings and sentiments of humanity. I cannot very well take my seat without referring to one incident mentioned by the author of the paper, and that was the young demented patient who seemed to have been so much improved and exalted by the change in the mode of dress and the adoption of a more ornate style of dress. We have heard a great deal of the ruling passion in death; I think that may be said to be the ruling passion in dementia. I desire that there should be recorded on the minutes of this society the warmest possible expression of our gratification received from the reading of this admirable paper, and to tender to Dr. Bennett the earnest thanks of this society for her instructive, able and admirable effort.

DR. GUNNING—I did not expect to say anything, but when I came to hear the paper of Dr. Bennett it called to mind five or six cases occurring when I was associated with an

institution on the frontier. I will not mention the place, because the party who most required restraint was the superintendent himself. When I was quartered there this matter interested me very much. My sympathies were constantly aroused and exercised. I found the patients in all kinds of harness, belts, wristlets, instruments resembling peach crates and various styles of furniture of that sort, which in some instances rendered it impossible for them to turn over.

The case presented by the doctor of one so difficult to manage, where food was forced upon her, brought to mind a case I had. It was the case of a colored woman, and being in the South, the feeling was not too kind towards her race. She occupied a place in the cellar and her food was forced in to her on a tin plate, and part of the time she was in a straight jacket. Occasionally it was found eaten and at other times it was found about the place. I suggested to the superintendent the idea of trying to coax her to eat. He said there was no use of doing that; she has been here eight or ten years, and that is the way she was when she came. At certain times in the month she was worse than at others, and at that time used to create a great deal of trouble. I suggested the plan of being with her, and it was carried out, and after a while the jackets were removed and she was as quiet as anybody, taking her food properly.

Another is the case of a young lady. The superintendent went into the ward one day to distribute a quantity of food. She made an attempt to strike him, and he got out of her way but she seized his watch and chain. She was put in the bath-room or dungeon. One of the wardens came to me and told me she was in the dungeon and wanted to know whether he should keep her there. I ordered the patient to her room and had the right clothing sent there. That night she was very hoarse; but the point I wish to call attention to was this, from the time I commenced to sympathize with her, I would walk and talk with her, and illustrated as well as I could the idea of moral influence upon her and other patients,

and succeeded in soothing her whenever these aggravated conditions or spells came on by using a few kind words. In this manner I broke up this disposition, but whenever the superintendent put his head in the door she would commence with all kinds of actions and words, swearing at him in every way you can think of. At any time I was called up, simply a word would satisfy her.

Another was the case of a captain in the Confederate army, a very fine gentleman. One afternoon I went in and heard a great noise, and found that he had been making a speech. The attendant commenced to handle him pretty roughly and then he was put in a dungeon. I succeeded very well with him whenever he was disposed to be violent simply by going to the door and looking at him for a few moments and making a bow to him. He would say, "Doctor, give me a chew of tobacco."

At another time I was called by the attendants. I went into the parlor—that was the name of the room, but it was not much of a parlor. One of the attendants was flat upon his back and another was doubled up. The Captain was standing. I said I am well acquainted with the captain and I went up to him. I said: Look here, what is the matter? have these people been insulting you? He told me about it and said, "Give me a chew of tobacco," and we walked down the ward. They all turned out in that way, kindly treated. I endorse heartily the statements of Dr. Bennett's paper.

DR. O'SULLIVAN—We hear suggestions which have the appearance of value, and we are all excited for the moment, and in a short time it dies out. That there is much in this subject is certainly true. I believe we are aware of the fact that women have a peculiar adaptability for the government of the insane, and this is an impression which is now creeping up and taking hold of our minds. Perhaps it is owing to the intuition of women of which Dr. Mann speaks, the gentleness and kindness of women. But I beg leave to

inform my learned friend that there are many women in charge of asylums, and we have some at this asylum of ours at Rye Beach, this Retreat of St. Vincent's, where the Sisters of Charity have charge of the inmates. I never in all my life saw anything so perfect as to ventilation and management as I saw there. There are some slight restraints in acute cases. They have fine grounds, ample light and ventilation, and the patients are constantly in fresh air. I saw but one under restraint, and one of the Sisters was sitting by. This St. Vincent Reatreat I must say has proven a most successful experiment, and it is under the care of intelligent women. I think the best thing to do would be to leave both classes of patients under the care of women.

MR. G. R. HAWES, Assistant Secretary—I have been told by the doctors that there are very often instances of severe homicidal mania where it is impossible to govern the patients by moral suasion. Mrs. Seguin is a case that has been called to mind, and the case of the Frenchman on 14th Street who was suddenly seized with homicidal mania and who, attacking a number of ladies, succeeded in killing one and seriously injuring a number of others. It might be a serious injury to themselves and to other patients to leave them unrestrained. A doctor was telling me of a patient I think at the hospital on Blackwells Island, an enormous negro, who, when he had this homicidal mania could not be held by six men or brought into subjection, and that he had several times injured the attendants. The only way they could keep him under was by using restraints. We know it is a fact that they are sometimes taken from the lowest strata of society, that they are vicious and criminal in their nature, and this homicidal mania may only increase the natural tendency, and if they are allowed freedom in the asylum I do not see how the attendants or their patients can be assured of personal safety. I think we would be glad to hear Dr. Bennett's experience with regard to that class of cases.

DR. STYLES—I have been intensely interested in this mat-



ter because I have had some very peculiar relations with insane people. I have been a superintendent of an Insane Asylum, and for the last fifteen years have not been able to get out of range of this class. I want to give my tribute of admiration to Dr. Bennett's paper. The humanitarian aspect strikes us most forcibly, but the philosophical aspect is also admirable. I only wish every one here were obliged to study out every sentence of it. You would see a great many beauties in it which you have not heard of in this room. I want to ask attention to another fact in regard to mechanical restraints. If you go back into history, beginning in the middle of the last century, you will find that an eminent French physician first moved to release a few patients of the most violent class who had been in chains, and after a short time he had every one released from chains. The improvement in the treatment started at that point. Connelly took it up and became a great apostle for the abolition of mechanical restraints, but public movements of this kind have a great tendency to get stuck in the ruts. Forty years ago the asylums of America were ahead of the asylums of Europe; to-day they are twenty-five years behind those of England and Scotland. The whole subject got into the hands of a few specialists and we have been at a standstill. The question has come up again, and the men who ought to know most of the desirability of a change are fighting against it. There is another point about Dr. Bennett's position. I count it among the few triumphs of my life that I first introduced a female physician into an asylum. When I organized an asylum in this State in 1873 I procured a female assistant, and they have one now, and she has been of incalculable benefit to that institution. I hold that no asylum can be properly run without one or two female physicians. I want to have you all consider this. We have been reflecting upon this subject without apparently much good; but there is a practical point where I think we can all unite, and I am sure that if you take up this subject dispassionately you will find



that the abolition of restraint is feasible. But it will involve labor on the part of those who are to educate their patients to it.

The speakers have shown where the simple taking off of restraints and coming to a man and touching his self-respect has brought recovery. I know of a case of an army officer who after twelve years' affliction came finally to me. I am sorry to say that the Lord had given him great gifts only to be twisted into a demoniacal form. When confined so that he could not move a toe or a joint, that man would turn his head and chew up half a pillow before morning. I set my wits to work and took him drives about, dressed in the best of clothes, gave him good cigars, and there was a change right off. He had his tantrums and his violent fits, and the attendants were afraid of him. I fortunately was blessed with a wife with a good deal of grit, and she would take the man riding in the carriage. He would yell along the road, and I have been told by farmers who would watch him that they expected every moment that she would be torn to pieces. But she always managed him by the power of affectionate sympathy, and always brought him back safe. I recollect after she had been away to Europe he took it very hard, and when she returned, hearing that he wished to go to the chapel, she desired to take him but I rather objected, but women have a way of prevailing, and I finally said, "you can take the risk." She took his arm and walked him up to the front seat. I acknowledge he did make some remarks to her that were not relevant, but he was courteous and well behaved. I finally said to his friends, you may take him out of the asylum, and I will give you the best male servant we have. The man is now a well man and has been for years, he called on me recently.

I could talk to you by the hour of cases where a single word of sympathy, some little favor done, was the starting point toward recovery, and I venture to say with all due respect to the resources of the profession to which I belong,

that I will undertake with sympathy to cure more patients than all the rest of the doctors will do with medicines ; I mean that it can be done. The wonderful power of mind over mind rightfully exerted should be the key note of every asylum. I hope to see the day when it will be.

MR. CLARK BELL, the President—Dr. Mann has well said in alluding to this subject that there is a diversity of views among the authorities on this subject. I very much regret that none of the medical gentlemen who occupy the other side of the question are with us this evening. Members of this society having experience with the insane, have not come to the view enunciated by the author of the paper, and the view which Dr. Gray is understood to hold at this juncture, that mechanical restraints should be used in certain cases of acute mania, as suggested by Dr. O'Sullivan, is held by some good men ; but the advocates of the entire absence of mechanical restraints say that the most beneficent results have been observed in the acute cases. The case of the Frenchman in the street was one where there was no restraint at all. The Frenchman was at large, while he should have been in some asylum. Mrs Seguin was in her own house. But these cases do not involve the question here. I remember reading the testimony of the Earl of Shaftesbury, before the Parliamentary Commission, where, speaking of an examination made by himself, he describes a horrible state of things. In some asylums every bedstead had a chain and ring attached to it. I do not doubt on this continent at this moment there are thousands of persons under various forms of restraints. The doctrine seems to be that mechanical restraints are necessary on a sliding scale, so that any person who becomes violent may be put under restraint. I would be glad to have Dr. Bennett state whether there are men at the asylum with which she is connected, whether they are in charge of a male superintendent, and whether the treatment adopted in regard to them is the same as in British asylums.

I notice in a recent number of the *American Journal of Insanity*, the writer goes to great pains to state that in many of those British institutions where it is claimed restraints are not used, that mechanical restraints are used in extraordinary cases. Now an asylum exists in Scotland where they have taken the locks off the doors, and it is a success. Dr. Shaw burned about 300 instruments for restraining, and his institution has been since conducted without mechanical restraints with perfect success. Those who read the *Herald* will remember the testimony given by Dr. Tucker in regard to this very subject. I have thought under the circumstances, considering the wide interest that is felt in this subject, the debates going on in the society, and the interest felt in the question by the public at large, it would be well to have such testimony as Dr. Bennett would be able to give us upon practical facts occurring under her own eye. I think the question of female superintendence is one that is destined to grow in public estimation, and that some of the ablest of our medical men now favor it.

DR. BENNETT—In regard to the cases of homicidal mania, I may state that I have had no experience. I would not consider the case of Mrs. Seguin a case of that kind; the case of the Frenchman would be. Those are cases we must deal with most carefully; but I think it would be harsh and hardly justifiable to tie up every person who might sometimes become subject to such spells. In such cases there should be close and intelligent supervision and deadly instruments should not be left lying around within the patient's reach. In regard to the male department of the asylum, it is in charge of a man, but I know very little about it. We are living in the same institution, but we are practically separated from each other. I think Dr. Chase is a less radical advocate of non-restraint than I am. While anxious to do the best possible, I think in exceptional cases he uses restraint but very little. I intended to refer to patients of suicidal mania. In my department we

make the provision of having a special night watch where such patients sleep, and they are under observation. I would like to take this opportunity to offer to Dr. Shaw my thanks for the practical advice he gave me upon this subject. He told me his own experience, and in a half-hour's conversation he gave me a great deal of advice and endued me with a great deal of courage with which to enter upon those duties.

A vote of thanks was tendered Dr. Alice Bennett for her paper.

The Executive Committee reported in favor of the amendment to the By-Law given notice of by Jacob Shrady, Esq., to increase the annual dues of members \$1.00 additional, to enable the society to furnish a copy of the MEDICO-LEGAL JOURNAL to each member of the body.

On motion the report of the Executive Committee was received and adopted. The question came before the Society to amend Section 2 of Article 3 of the By-Laws, by changing the annual dues from \$3.00 to \$4.00

The proposed amendment being put to vote was unanimously adopted, and the By-Law declared to be so amended.

On motion the treasurer was directed to send a copy of the JOURNAL to every member who has paid his dues.

The Chair announced that the first number of the MEDICO-LEGAL JOURNAL would shortly appear, as the same was then in press. The Committee on Expert Testimony reported progress, and that committee would not be able to make final report before next fall.

Dr. Holcomb moved, and Dr. O'Sullivan seconded, a motion, that the rules be suspended to allow Dr. Stiles to be elected a member. Dr. Wooster Beach objected, and the Chair decided that it would require unanimous consent, whereupon Dr. Beach withdrew his objection. On motion the rules were unanimously suspended. Dr. O'Sullivan moved, which was seconded, that Dr. Stiles be elected and

that we now proceed to the election, which was carried unanimously.

The Chair then decided that it would require a favorable report on the name from the Executive Committee and the assent of the candidate. A quorum of the Executive Committee being present, reported in favor of Dr. Stiles' election. On proceeding to ballot Dr. Stiles was declared duly elected.

The Society adjourned.

L. P. HOLME, *Secretary*.

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THE MEDICO-LEGAL SOCIETY OF NEW YORK.

PRESIDENCY OF CLARK BELL, ESQ.

Meeting held September 12, 1883. In the absence of the Secretary in Europe, and the Assistant Secretary not being present, E. H. M. Sell, M.D., was chosen Secretary *pro tem*.

The minutes of the meeting of June 6, 1883, were read and approved.

The following active members were elected: Prof. Benjamin Silliman, New Haven, Conn.; Charles F. Stillman, M.D., 107 East 18th Street; Edward M. Finecane, M.D., Surgeon on Cunard Line of Steamers.

The following Corresponding Members were duly elected: H. Aubrey Husband, M.D., C.M., Edinburgh, Scotland; Prof. Dr. Furstner, Heidelberg, Germany; Prof. A. Motet, Paris, France; W. W. Ireland, M.D., Edinburgh, Scotland; Prof. Benjamin Ball, Paris, France; George A. Tucker, M.D., Australia.

Prof. Dr. J. Maschka, of Prague, Bohemia, was elected an Honorary Member of the Society.

The following contributions to the Library were announced by the Chair:—General Paralysis of the Insane, by F. Fletcher McFarland, of Jacksonville, Ill., 1 pamphlet;—



Phillip Zenner, M.D., 3 pamphlets, viz : A Case of Hemiplegia ; General Paralysis ; Aphasia ;—Prof. Dr. Furstner, Heidelberg : VII., Wanderversammlung der Sudwestdeutscher ; Neurologen und Innartze in Baden Baden, am 10 und 11, Juni, 1882 ;—E. H. M. Sell, M.D., Reports of the Metropolitan Board of Health for 1866 and 1868 ; Third Report of Nashville Board of Health ; Fifth Registration Report of Michigan ; Transactions of Missouri State Medical Association, 1880 ; Transactions of Ohio State Medical Association for 1875, 1876 and 1877 ;—John S. Billings, M.D., Surgeon-General's Office, Washington, D. C., Vol. 5, No 8, Index Medicus.

The following papers were contributed to the Society by Prof. Dr. Furstner, of Heidelberg : Ueber Psychische Störungen, bei Gehörkranken ; Zur Pathologie, und diagnostik der Spinalen Höhlenbildung (Eigenthümliche Vasomotorische Störung), by Prof. Furstner and Dr. Zacher, of Heidelberg ;—Mr. H. Aubrey Husband : The Sanitary Laws of England, (E. & S. Livingstone. Edinburgh, 1883).

The Chair stated that Dr. Henry Maudsly, of London, was in this country, and that he had tendered him a reception to meet the Society on the expected eve of his return ; that he had just received a note from Dr. Maudsly, saying that he had been obliged to return sooner than he expected, and had sailed to-day, and was therefore unable to accept. The letter of Mr. Bell to Dr. Maudsly was placed on file.

The Chair then introduced Dr. R. L. PARSONS, who read a paper entitled "Jury Trial of the Insane."

DR. CHARLES H. NICHOLS, of the Bloomingdale Asylum, at the request of the Chair, spoke as follows :

The views expressed in the paper are, in the main, entirely satisfactory to me. If I were to modify them, I would express them somewhat more strongly than the author has done. My sense of the brutality of the trial of the insane by a jury, with a view to their being placed in an institution for the insane for treatment, was fairly well put in the language

of Dr. Macfarland. I don't know that his expletives could be very much strengthened, but I certainly would not leave any one of them out. The question as it seems to me resolves itself really into this: Is there any occasion for such a law and would such a law be beneficial? It seems to me that it has not been so shown by its advocates, and that it cannot be shown, because there are not facts upon which such a showing can be based, and there is no occasion for such a law. If I may be permitted to revert to my own experience, I have been engaged in the treatment of the insane for upwards of thirty-six years, and have personally treated upwards of six thousand patients, and the fingers and thumbs of my two hands would represent all the cases placed under my care that were doubtful as to whether they were insane or not; and in only one case, in all that time and in all that experience, has there been an effort, so far as I know, on the part of the friends of the patient, to place the patient under my treatment from improper motives. In that instance an effort was made—undoubtedly by the friends of the patient—to put aside the young man, who would testify against them in a pending criminal trial. The young man was really a bad fellow, and it was simply a question whether he should go to a lunatic asylum or the penitentiary. I did not think him insane, and as soon as I made up my mind to that fact I discharged him. All the other cases have been cases of so-called dipsomania, in which it was a question—or perhaps not a question in some instances—whether the case was one of disease or simply of vice that deserved punishment.

It seems to me that the trial by jury of the insane—the determination of the question as to whether a person is insane or not, with a view to his treatment in an institution for the insane—must be exceedingly injurious, as has been stated in the paper, and that society has no right, inasmuch as it has no occasion, to submit fellow-citizens whose sensibilities and personal rights are equal to ours, and equal to

those of all other members of society, to such an injurious ordeal. I regard it as a practical return to the past—to turning back the wheel of progress at least a hundred years—and I think I should have to put it farther back than that, and practically considering the insane as criminals, and treating insane persons and afflicted persons practically as such.

JOHN HENRY HULL, ESQ., said: It seemed to me that there might be this said in defence of any attempted system of trial of the insane, and the analysis I would make of the position occupied by those who contend for such a system is simply this: We must in some way get at the question of the insanity from either persons skilled in the disease or persons unskilled in the disease. Whether that question shall be decided by twelve men or one man is perhaps rather more remote than the immediate question presented to us—whether it shall be decided by skilled talent or unskilled talent? If, therefore, the position occupied by the advocates of the system is simply that skilled talent shall be brought to bear upon the question, I think all views would be suited. There is, of course, an implied security in the fact that more men participate in a verdict, while the practical operation of the law in this State is that a few men, practically two men, determine the question of sanity or insanity. It has sometimes occurred to me, with all the respect I do have for my brethren in medicine, that there is a danger lurking in that system. I dare say some of my brothers in the law here can very well remember instances where that system has been injuriously invoked, and where the interests, the family influence and the family feelings are at stake, the physician is more liable to be influenced by them than a lawyer. Their relations are so intimate that physicians have been influenced by that consideration, and have granted certificates to still, to satisfy, to set at rest the feeling of the family that there should be a commitment to an insane asylum.

Now, the point I make is this: By the verdict of a larger number than the law requires there is less danger of this

weakness, or of this influence having any effect in the community. I would not ask that twelve physicians or twelve men skilled in sanity or insanity should be taken from their duties, but that a verdict might be rendered, say, by six physicians, upon the sanity or insanity of the patient; and I am not so far with the advocates of the system as to say that the verdict should be rendered by any but skilled talent. I believe there should sit with the Judge on the Bench, in certain cases, or where it is presumed that a criminal on trial may have been prompted by insanity to an act, I believe a man should sit by the side of the Judge on the Bench who is an expert on a point where a man's insanity can be shown, and that his view should be taken equally with the Judge. Many a man has been condemned as a murderer, when the man was probably only insane and bereft of his power of knowing what is right or wrong. So that, so far as regards this question presented, whether there should be jury trial for the insane, I am with it; but I am not with it where it is left to the ordinary layman or the unskilled jurymen. I am with it so far as it provides for a larger number than those who now grant the certificate, but I claim those should be skilled men—physicians, if you will.

MR. WATSON, being called upon by the Chair, said: I confess to very little experience in my professional practice on this subject. From the little I have had I must confess that my sympathies would rather go towards the last speaker on the subject, and yet I am convinced that the views in the paper are very much sounder than those expressed by my friend who has just addressed you. I can see no reason on general principles for leaving the judgment upon the question of insanity to persons who have no qualifications for judgment, any more than leaving other questions to those who have no qualifications as judges. And rather than change the present system disadvantageously, as, I think, the proposition for a jury trial would be, I would change it in the direction of submitting—if there is to be any trial—the



question to an expert judge. I would improve upon the suggestion of my friend who last spoke, and do away with the law judge, who has no special qualification upon the question of insanity more than that which can be acquired by any lawyer, and put in his stead some judge or commissioner who is an expert upon that subject, and, if possible, make that trial very speedy and very private, so that the objections which have been urged here to the delay and publicity may be done away with.

DR. O'SULLIVAN—Grave mistakes are sometimes made by experts on insanity, and this night I might not be here living—I might have been in the hands of a skilful surgeon making an autopsy—if the judgment of a Superintendent of an Insane Asylum had been taken. Of course every man is liable to error. But I say this is a fact. About a year and a half ago I diagnosed a case of incipient paresis. At that time I could get no one to concur with my opinion. The subject was a man in the prime of life, and it looked like an absurdity to say that that man was in the early stages of a disease that would be fatal in a short time. However, the trouble grew, and his friends finally committed him, and he was sent to one of the asylums of this State. The disease progressed steadily. There is a state of intermission which comes in this disease, and the intermission is so like a cure, that while it does not impose upon the officers of the asylum, they are willing to relax their rules, and sometimes to send the patient out on parole. This man was sent out in that way without the knowledge of his guardian. The type of the disease was homicidal, and the relatives were in extreme danger. I, myself, had a visit from this individual not more than two weeks ago. I returned from a Southern trip of recreation, and while looking over some correspondence the door-bell rang, and who should present himself but this lunatic. I said, "How are you?" He said, "I want nothing whatever to do with you." He said, "You are in fault; you said I would never recover." I saw his pistol-pocket bulged out;



he had a heavy cane. I closed the folding-doors and I looked at him with great suspicion. He said, "I will have it out with you now." I kept my eye on the suspicious pocket. I said, "Did I send you to the asylum?" "No." "Did I keep you there?" "No." "Did I have you discharged?" "No." "Well, what is the trouble?" "You said I will never recover. Now, I am going into business; I will make \$25,000, and may make a hundred thousand this year." "Well," I said, "you are out; perhaps I was mistaken—I didn't send you there?" "No." "Didn't keep you there?" "No." "Didn't take you out?" "No." "Well," said I, "what is the matter?" Then he commenced and took out of his pocket a roll of manuscript of charges against the citizens. What was the result of all that? I got a telegram last night from his wife, saying: "I am in dire distress; come." He broke into the house and broke the furniture, and was waiting there with the full determination of shooting her—of killing her, beyond a doubt. That was certainly his motive. That is only one incident.

There should be some restraint on the superintendents of our asylums. There should be some modification of the law. I entirely agree with Dr. Parsons that a jury trial is a farce; but we should have changes in existing statutes, as your Permanent Commission has recommended in its annual report,

MR. CLARK BELL—The Chair will make a single statement in regard to the issue presented by the paper. It is a most admirable presentation of the subject, and one I think of great service in the immediate future. The situation to which Dr. Parsons alludes in the paper is the fact that Mr. Hodges, of Brooklyn, a member of the last Legislature, introduced a bill for the amendment of the present law to provide a trial by jury. He was not then a member of the Society, but, I understand, is now. I addressed a note to him, asking him to be present this evening; perhaps it may not have reached him. He was very strenuous in favor of that bill before the Committee of the Judiciary, to whom this bill was referred.

Hon. Jacob F. Miller, also a member of this Society, was upon that committee. Still another member of this Society, the Hon. Homer A. Nelson, was Chairman of the Judiciary Committee of the Senate having the Senate bill on Lunacy Reform in charge. The bill submitted by the committee of the Society did not contain a clause for jury trial. That committee were very unanimously of the opinion that it was not a proper subject for amendment. I visited Albany during the session and met Mr. Hodges, who claimed that the medical profession in Brooklyn, to the extent of forty or fifty members, had strongly favored and signed a petition for his bill. He cited the fact that the Legislature of Illinois had, some fourteen or fifteen years ago, passed such a law, and so far as we have any means of knowing, no one had any cause of objection to it. We were unable to induce him to withdraw his objection to the passage of a bill without a clause for jury trial.

The remarks quoted in this paper of the Earl of Shaftesbury would hardly be pertinent to our law, because the theory of commitment in England is different from that in New York. The theory under which an insane person is committed in Great Britain, is that some relative commits him, and in aid of that order the evidence of a medical expert is taken. It is the misfortune of our law that the medical men are frequently put to the front, while the relatives stand behind, and the odium frequently attaches to the medical men.

There is one branch of the case to which I listened with great interest, spoken of both by Dr. Parsons and by Dr. Nichols, in which they speak of the infrequency of any erroneous commitment under the existing laws. That is certainly contrary to the generally received opinion of the public. It is only last week that there was a commitment made to the Hospital for the Insane in Norristown, Pennsylvania, where an exposé was made in the Philadelphia newspapers; and I see by a recent journal that Dr. Chase has discharged the man

regularly committed under the Pennsylvania law, as improperly committed, notwithstanding the certificates; and the proceedings in our courts within the last eighteen to twenty-four months, on habeas corpus, have shown judicially a great many improper commitments, if the verdicts in those cases are to be taken as correct, or guides as to the facts of the cases.

The prominent incentive in this jury trial movement is the embarrassment naturally felt about taking the liberty of the citizen without due process of law. Certain medical men seem not to consider this as worthy serious consideration. But the practice of arresting men, taking them out of their business and houses without any judicial proceeding, is what is arresting the public attention and condemnation. I do not see any objection to have a judge decide upon these cases any more than upon any other transaction in life. The judge decides upon testimony and the medical man is a witness. I do not believe in jury trials preliminary for the commitment of the insane. I know I wrote Mr. Hodges proposing to him this suggestion in regard to himself, with a view of inducing him to withdraw his objection to the passage of the pending bill. I said: "Supposing your own daughter, arriving at the age of puberty, should manifest any mental disturbance which your medical adviser would say required certain medical treatment, and which, if properly treated, would be attended with no serious consequences. Do you mean to say that you would be willing to take your daughter or any friend of yours and have her tried before a jury on a question like that, which would prejudice her recovery, instead of having a proper and judicious investigation by a medical man and a judge?" I can see the great force of what was said by Dr. Parsons and the medical men generally. Insanity is a disease which must be treated in its incipency with the greatest care and delicacy; and assuming that it exists, I can see that a jury trial in a great many instances would be very prejudicial to the patient, and perhaps stand really in the way of recovery.

So far as this Society is concerned, we have never for a moment, I think, been in a position where we would have been willing to assent to the proposition that a jury trial would be proper preliminary to commitment of the insane. I think it would be well for Dr. Parsons to give the names of the superintendents in Illinois of whom he spoke.

MR. GEORGE H. YEAMAN—I have not reflected on this question recently, but I think this is a fit occasion to remark to both the medical and legal professions that the whole truth does not lie on either side of this question. There is always danger that a lawyer will take a strictly legal view, and that a physician will not only take a professional view from his standpoint, but sometimes the view as an habitual expert. To my mind it is one of the most difficult problems of modern civilization how to treat, when to treat, the insane, and how to determine when you are justified in interfering with personal liberty in order to treat. There is nothing else so delicate—nothing else so shadowy and uncertain.

The jury system itself has a grand and glorious history. It has been a potent factor in the development of English constitutional liberty, where we derive so much of our own constitutional law, and this makes the people love the jury system. Yet I am one of those who believe that the jury system has accomplished about all of the good in the history of Anglo-Saxon constitutional law which it is destined to accomplish. I believe that, as a practical piece of machinery for justice between man and man, it has lost its value, and that I would rather rely on the decision of a judge any day than a jury. But we must be very cautious in denouncing an institution so interwoven with the affections of the people. There is another thing about this. Lawyers are familiar with the maxim that hard cases make bad law. The President alludes to the public belief that there have been improper commitments. I don't know whether there have been or not; but one improper commitment, depriving one human being of liberty, even from disinterested motives, would make such



an impression on the people at large and the legal profession as would force recognition, and we must have some sure guaranty for liberty.

Now, the precise question is, should there be a jury trial—the trial by the ordinary twelve men, picked out here and there at random—to determine whether any given human being should be treated medically for the misfortune of alienation of mind? I would say unhesitatingly that there should not be; that there ought to be some more quiet, less exciting and less dangerous method of conducting this preliminary inquiry. There have been cases where juries would never believe that an accused person (if I may use that language) was insane, when physicians would know that they were. But the precise infirmity of the system, the precise danger, is this: You cannot convince a jury that anybody is insane until the afflicted person has done some overt act, and sometimes then you cannot do it. Whereas, a physician could detect the symptoms of insanity or coming insanity; he may even detect the symptoms of suicidal or homicidal tendencies, and he may know the interests of the person, as well as the interests of the family and society, and demand immediate treatment. You cannot convince a jury of that fact, and therefore the immediate treatment is not obtained, and the danger develops a little later.

I have great respect for all professions, and for none more than the medical profession, but there is that weakness in the human mind that those who give themselves up to the investigation of some one particular subject will fall into the evil of magnifying the danger and finding danger where another would not find it. I have thought sometimes I would be afraid to be examined myself by the medical experts. The question is, should not there be a little break put on somewhere? While I would not favor trial by jury of twelve men who don't know anything about the subject, I would have three physicians, or a jury of six physicians, or I would have some one detailed to give expert testimony to the Court. I



don't believe either in medical cases or in patent right cases, or in engineering cases, or in any other cases, of confining the investigation to the expert testimony that is hired and paid for by the litigants, just as they hire me as counsel on one side and you, Mr. President, on the other. I would not prevent people from doing it, but I would give the Court the power to call in an impartial expert.

We ought to have something of that kind in these insanity cases. There is another thing in the paper of Dr. Parsons. He says you might just as well by jury trials determine whether a patient ought to be treated for smallpox as whether he ought to be treated for insanity. I think on reflection he will modify that opinion. He might know I was already afflicted with the smallpox when I could not possibly know it. But I might know that he was going insane. I could know that fact without being a physician. There are two classes of evidence of insanity. He would discover I was going insane long before my lay friends would. He would discover it by the pupil of the eye, by that tremulousness of the eye, or the twitching of the tongue, that I ought to be taken now and treated. But I take it a man may be absolutely insane and a learned doctor would find none of those symptoms; that a man may be mentally deranged and you don't upon the surface discover the symptoms. What are the evidences of insanity then? Why, conduct, speech, behavior, so that people that are not doctors can discover these symptoms sometimes as well as doctors. Haven't we then a right to a little lay help in the case? Let it be physicians, if you like, or two or three judges, but six more distinguished and learned and eminent citizens.

I do agree that I would not take the proposed jury system. It would be a frightful proposition. A gentleman finds his wife has broken down with hysterics, or she has had puerperal fever and she is in danger of doing some violence to herself or her child. He suspects it. He calls in the doctor. The doctor says, "there is imminent danger;

she ought to be treated at once ” “ Well, but doctor, I can't do it, but by a public trial.” And there are twelve men, Tom, Dick and Harry, servants, neighbors, policemen, everybody to be called as witnesses, and this good, delicate lady is dragged to a court-house. She stiffens up under the insult. She is indignant at the outrage. And she answers everything brightly and speaks clearly and forcibly, exhibiting no weakness, and she is promptly acquitted. The outrage on the family was in not treating her when she ought to have been treated, which this trial by jury would prevent.

I don't know whether Dr. Parsons was in earnest about it, but he did drop the intimation that sometimes when people behave as if they were insane, if they were treated as insane it would be no injustice to them, and might be a mercy to others. It is perfectly true.

MR. D. C. CALVIN—We must assume that the opinions obtained by the learned author of this paper, as to the workings of the jury system in Illinois, have been derived from those familiar with the facts, and without any apparent motive to exaggerate the evils of the system, and therefore we should feel specially indebted to Dr. Parsons for the information he has collected, as well as the learning and the moderation and fairness exhibited in the argument presented.

I think there is no one present who would be willing to have the jury system as it is depicted by those gentlemen from Illinois adopted in this State. I think it is equally clear, and in consonance with common sense, that a person in order to determine a question which involves special knowledge and science must have some knowledge of that science, and that to say that an ordinarily intelligent jury, selected as we select them for the purpose of trying civil matters, will be competent to determine that question, is to say that ignorance is adequate to the task of determining one of the most obstruse questions which can be presented to the human mind.

One of the members of the Committee upon the Lu-

nacy Bill sent by this association to the Legislature, assured me that it was not likely to receive the approval of the Committee or of the Legislature unless amended in the important feature of the preliminary proceedings—and at his request among other things I suggested an amendment by which the judge who was authorized to institute inquiry into the mental condition of the person certified by two physicians to be insane, should be *required* to do so before approving, as to leave the performance of so important a duty, involving the liberty of the citizen to the *discretion* of the judge, seemed to the committee repugnant to their notions of safety.

MR. BELL—If I mistake not, the present law authorizes the judge to institute such an inquiry—with or without a jury.

MR. CALVIN—I would leave the inquiry with a jury entirely out. I think a jury trial would be a cruelty towards the person whose mental condition should be involved.

MR. BELL—If I correctly remember, our committee made no proposed amendment on that subject, but let the law stand as it was.

MR. CALVIN—I desire to make another suggestion prompted by what Mr. Hull said. It struck me with some force that a family physician sometimes, even upon the assumption of his entire integrity, might be strongly biased by his intimate association with the family, and I am of the opinion that there should be two certificates besides that of the family physician, and that the family physician should always be called before the judge and examined in respect to the case, and that this additional safeguard should be thrown around the liberty of the citizen.

Some suggestion has been made by Mr. Yeaman, to whom we always listen with such pleasure and profit, that it sometimes occurs that laymen may judge of the mental condition, not scientifically, but from manifestations, with a good degree of accuracy, and that either the judge or some other person in his stead, should join with the physicians in passing upon the person's mental condition.

Apropos to that suggestion, Dr. Gray, of the State Lunatic Asylum, at Utica, in a celebrated will contest, was asked as a witness whether other than alienists were capable of determining the question of mental unsoundness, to which he answered that nine-tenths of the persons who were sent to the State Lunatic Asylum were discovered to be insane by their friends and associates, and that, with rare exceptions they judged correctly.

Dr. R. J. O'Sullivan, from the Committee on Hygiene in the public schools, reported progress.

The question coming up on the proposal to fill the vacancy in the office of Trustee, Dr. J. Clark Thomas was nominated for the office.

On motion the election was put over until the October meeting.

E H. M. Sell, M.D., *Secretary pro-tem*.

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#### THE MEDICO-LEGAL SOCIETY OF NEW YORK.

##### PRESIDENCY OF CLARK BELL, ESQ.

Session of October 3, 1883. The minutes of meeting of September 12th were read and approved. The Executive Committee reported, recommending the following amendments to the Constitution :

1. By striking out the words in Article 1, Section 3 of the Constitution, from "such" to "association," both inclusive, being the last clause of the Section.

2. By striking out of Article V, Section 5, the words "prior to the election of the officers," and inserting in lieu thereof the words "of the current year."

By order of the Chair the amendments were laid over under the rule to be acted upon at the next regular meeting.

The following active members were elected on recommen-

dation of the Executive Committee: Alice Bennett, M.D., Pennsylvania State Hospital for the Insane, at Norristown, Pa.; Frederick M. Warner, M.D., 836 7th Avenue; Melville C. Day, Esq., New York; Daniel Brown, M.D., 81 East 10th Street; Clark B. Augustine, Esq., 84 Nassau Street; John D. Townsend, Esq., 32 Park Place; Henri Nachtel, M.D., New York.

On recommendation of the Executive Committee the following Corresponding members were elected: Prof. Leonardo Bianchi, Naples, Italy; Prof. G. Buonomo, Naples, Italy.

The Chair then introduced Charles F. Wingate, Esq., who read a paper entitled "*Sanitary Laws relating to building in New York.*" A. N. Bell made remarks upon the paper at request of the Chair, which were replied to by Mr. Wingate.

The paper announced by Prof. Reese, of Philadelphia, was laid over until the November meeting, and the Chair introduced PROF. BENJ. SILLIMAN, of New Haven, Prof. of Chemistry in the Medical Department of Yale College, who read a paper entitled, "*A fatal Case of Poisoning by Arseniate of Sodium.*" A discussion followed participated in by Prof. R. O. Doremus, Charles F. Wingate, Esq., A. N. Bell, M.D., R. J. O'Sullivan, M.D., Prof. Charles A. Doremus, the Chair, Dr. Moore and E. McIntyre. Prof. Silliman closed the debate. The vacancy in the office of Trustee caused by the resignation of Prof. Lewis A. Sayre, on account of ill health, was filled by the election of J. Clark Thomas, M.D., as Trustee to fill the vacancy.

The Chair announced the death in London of our member Charles Wright, M.D., for years a member of this Society, and paid a tribute to the sterling worth and many virtues of the deceased.

Upon the suggestion of the Chair, a committee composed of Dr. Wm. F. Holcome and Leicester P. Holme was named to submit suitable resolutions expressing the sense of the Society of the loss sustained by the death of Dr. Wright.



The following contributions to the library were announced :

Dr. J. S. Billings, Surgeon General's Office, Index Medicus.

Dr. E. H. M. Sell, 75 pamphlets.

Prof. H. Aubrey Husband, Edinburgh, Sanitary Law.

The Society adjourned.

LEICESTER P. HOLME, *Secretary*.

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#### MASSACHUSETTS MEDICO-LEGAL SOCIETY.

October 3, 1883—Stated meeting at the hall of the Boston Medical Library Association, President Presbrey in the chair, present 16 members. The meeting was called to order at 12 M. Records of the last meeting were read and approved. On recommendation of the Executive Board, Medical Examiners J. P. Lynde, of Athol, Christopher Seymour, of Northampton, F. L. Burden, of North Attleboro, O. J. Brown, of North Adams, and G. P. Pratt, of Cohasset, were unanimously elected members of the society.

Voted, on motion of Medical Examiner Draper, that the Standing Committee be authorized to print and publish at the expense of the society, an edition not exceeding 300 copies of the transactions for the current year, and that the edition be distributed by the Treasurer as follows : To each regular member who has paid all his assessments to date, three copies ; to each contributor to the pamphlet published, ten copies ; to each associate member, one copy ; to each of fifteen periodicals, one copy. The balance of the edition shall be held for sale to members at cost price, to all others at the best rates which the Treasurer can arrange.

Also on motion of Medical Examiner Draper, voted, that the treasurer be instructed to expend annually before the first day of January, until further orders, from the unappropriated funds in his hands, a sum not exceeding twenty dollars for journals, books, or both, devoted to legal medicine, to be circu-

lated among such of the regular members of the society as have paid all their assessment dues to the date on which the book or journal leaves the office of the Treasurer, the books and journals being finally deposited as the property of the society with the Boston Medical Library Association.

Voted: To allow each member the use of each journal or book so purchased, for three days, and to follow the most convenient method, geographically, in their circulation, the execution of the plans to be left with a committee composed of the Treasurer and Medical Examiner Draper.

Theodore M. Osborn, Esq., of Peabody, was nominated for associate membership. Med. Exr. Taylor read the notes of a case of delayed putrefaction, which were discussed by Medical Examiner Draper.

The President acknowledged the receipt of the NEW YORK MEDICO-LEGAL JOURNAL, No. 2, and the Transactions of the Philadelphia College of Physicians, Series 3, No. 6.

Voted to adjourn.

W. H. TAYLOR, *Recording Secretary*.

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SEVENTH MEETING OF THE SOUTHWESTERN GERMAN NEUROLOGISTS  
AND ALIENISTS, IN BADEN-BADEN, JUNE 10th AND 11th, 1882.\*

The following members were present: Dr. Acker, of Eichberg; Prof. Dr. Baumler, of Freiburg; Dr. Baumgartner, of Baden-Baden; Prof. Dr. Berlin, of Stuttgart; Director Dr. Borell, of Hub; Dr. Breitemeyer, of Baden-Baden; Dr. Froebelius, of Saargemund; Dr. Frey, of Baden-Baden; Prof. Dr. Fürstner, of Heidelberg; Dr. Greiff, Assistant Physician of Heidelberg; Dr. Heilicenthal, of Baden-Baden; Medical Counsellor Dr. Hessè, Darmstadt; Dr. von Hoffmann, Baden-Baden; Medical Counsellor Dr. Homburger, Karlsruhe; Prof. Dr. Jolly, Strassburg; Dr. Katz, Heidel-

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\* Translated by Rudolph Tauszky, M.D., New York.

berg ; Prof. Dr. Kohts, Strassburg ; Privy Counsellor Kussmaul, Strassburg ; Dr. Landerer, Goppingen ; Dr. Landerer, Kenneburg ; Prof. Dr. Manz, Freiburg ; Dr. Meyer, Kenneburg ; Prof. Dr. Moss, Heidelberg ; Dr. Miller, Assistant, Strassburg ; Dr. Hadler, Illenan ; Privy-Counsellor von Rinecker, Würzburg ; Dr. Schäfer, Stephansfeld ; Dr. Schiele, Baden-Baden ; Dr. Schliep, Baden-Baden ; Prof. Dr. Shulze, Heidelberg ; Dr. Seeligmann, Baden-Baden ; Director Dr. Stark, Stephansfeld ; Dr. Stilling Privatdocent, Strassburg ; Dr. Stühlinger, Assistant Physician, Heppenheim ; Prof. Dr. Waldeyer, Strassburg ; Director Dr. Walther, Pforzheim ; Medical Counsellor Werle von Heppenheim, Dr. Wildermuth, Sietlin, Dr. Witkowski, Strassburg.

The following gentlemen sent letters or telegrams of regret for their inability to attend the meeting : Prof. Dr. Erb, Leipzig, Court Counsellor Dr. Flamm, Pfullinger ; Prof. Dr. Fovel, Zürich ; Med. Counsellor Prof. von Guden, Munich ; Privy-Counsellor Hergt, Illenan ; Prof. Dr. Hitzig, Halle ; Prof. Dr. Jürgensen, Tübingen ; Dr. Kirn, Freiburg ; Director von Koch, Zweifatten ; Prof. Dr. Liebermeister, Tübingen ; Director Dr. Loechner, Klingenmünster ; Medical Counsellor Dr. Otto, Illenan ; Dr. Roller, Kaiserswerth ; Dr. Rumpf, Düsseldorf ; Privy-Counsellor Dr. Schüle, Illenan ; Dr. Schwaab, Werneck ; Dr. Spamer, Mainiz ; Prof. Dr. Vierondt, Tübingen ; Prof. Dr. Westphal, Berlin ; Dr. Wurm, Teinach.

The first meeting was held June 10, 2 P.M. Prof. Dr. Furstner welcomed the meeting and the Senior President Privy Counsellor Dr. Rincker was unanimously elected President. Secretaries : Dr. Muller, Strassburg ; Dr. Greiff, Heidelberg.

1. Privy-Counsellor Dr. Kussmaul, of Strassburg, was the first to address the meeting—relating the case of Laura Bridgeman, an American girl, who from her second year received instruction in Boston, Mass., in sound language by means of the sense of touch and movements of her fingers. She having been born blind and deaf, it was a great scientific

triumph that she could be taught by her teacher how to write the English language and how to articulate so that she could make herself understood to others by intelligible sounds. This remarkable case induced Kussmaul to think that the capacity to imitate sound language, viz.: to phonate, depends either upon the sense of hearing, or that of sight—and that only one of these is requisite in order to be able to phonate, or to learn sound language. Deafness and blindness in one individual, if existing from early childhood, precludes the possibility of learning to speak or to phonate, but does not exclude the capability of speaking by expressions of the face and palpable written signs. He now wished to modify his views upon this subject, expressed in his book, page 54, since he learned, after its publication, of a case in Europe of a deaf and blind person, where, by instruction, a greater wonder was accomplished than in the case of the American, Bridgeman. This remarkable individual's name is Edward Meystre, who lives in the asylum for the blind in Lausanne. His teacher's name is Th. Devrient, who wrote the history of the deaf and blind Edward Meystre, of Lausanne. In this, Devrient refers to the following papers: Hirzel, *Notice sur de ix Aveugles, Sourds, Muets*, Geneve, 1847, *Rapport Annuels du comité de l'asile des Aveugles de Lausanne* of the years 1843 to 1864. A happy man, by Prof. Morlot, in *Chambers Journal*, July 1855. Kussmaul says he visited, 2 years ago, the blind asylum in Lausanne and made the acquaintance of Edward Meystre and his teacher, Hirzel. He then briefly gives the history of Edward Meystre, who was born in 1826, deaf, and lost his eyesight completely, when 7 years old, through a gun-shot wound—until his 18th year, he learned nothing but to saw wood. He then entered the asylum for the blind in his native city, here, H. Hirzel taught him the finger language of the Abbé de l'Epée and to write French by the raised signs by means of his sense of touch, and also to speak in the same language. The highly intelligent deaf and blind man, who grew up entirely ignorant, and, like a savage, was tricky—

disposed to lie and to steal—became a moral and religious man, and, what is yet more remarkable, through the instruction of H. Friedrich in Lausanne he was trained into a skilful turner. Never has the art to instruct celebrated a greater triumph. H. Hirzel taught the young man to articulate. I have convinced myself that Meystre could communicate what he thought in fluent, articulated language—although it must be admitted that to those unused to his language some words were not clearly pronounced, especially the guttural sounds—Kussmaul now formulates the third sentence of the 15th Chapter of his book as follows: That hearing is the only sense by which man is prompted to imitate intelligent sound language, and which makes him capable of learning it in early childhood by imitating what he hears. If the hearing sense is wanting, the sense of sight is not sufficient to cause the mute to imitate our language or to learn how to speak by gestures or by mimicking language (so called pantomime.) The deaf mute, although having the instinct to produce sounds, can only acquire sound language by special instruction, or by learning how to imitate the sound mimic. If hearing and sight are wanting, still sound language may be learned, exclusively of course, by the aid of the sense of touch and muscle sense—(Muskelsinn); he practices and executes the necessary movements and thus learns it so that others may understand what he says.

After the lecture Prof. Kussmaul showed the photographs of Ed. Meystre and his teacher H. Hirzel, also a finely executed work of Ed. Meystre, a pear, carved in wood.

The second lecture was by Prof. Waldeyer, entitled, "The Terminations of the Muscle Nerves."

This, as well as extracts of the other interesting lectures of this meeting, will appear in the next publication of the society.

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#### THE AMERICAN NEUROLOGICAL ASSOCIATION

held its ninth annual meeting at the New York Academy of Medicine, June 20th, 21st and 22d, with afternoon and even-



ing sessions. Dr. W. A. Hammond, the President, made a graceful retiring address, and introduced the President elect, Dr. Robert T. Edes, of Boston, who in a few words summed up the progress of Neurology for the past year, by the word "localization." Dr. W. J. Morton read a paper on "Neuritis following dislocation"; this was followed by a paper by Dr. C. L. Dana, of New York, on "Hydrobromic Acid as a substitute for the Bromides."

Dr. T. A. McBride, of New York, read a paper on "Migraine, its Pathology and Localization." At the evening session, Dr. C. K. Mills, of Philadelphia, reported a case of Locomotive Ataxia, terminating in general paralysis of the insane, and Dr. E. C. Spitzka, of New York, made remarks on the alleged relation of speech disturbance and the Patella Tendon Reflex in Paretic Dementia. On Thursday, June 21st, the President, Dr. Robert T. Edes, of Boston, read a very interesting paper on "the excretion of Phosphates and Phosphorus as connected with mental labor," showing that the phosphates are not appreciably increased during mental labor.

Dr. Webber made report of three very interesting cases of Locomotive Ataxia.

Dr. Jewell, of Chicago, made remarks pertinent to both the preceding papers.

Dr. R. W. Amidon, of New York, reported a case of Tetanoid Pseudo-Paraplegia, of interest from an Etiological and Pathological point of view.

Dr. W. J. Morton, of New York, exhibited an apparatus for treating Scrivener's Palsy.

A letter from Dr. E. C. Seguin, of this city, was read on the insane of Spain and their asylums.

On Friday, June 22d, Prof. Burt G. Wilder, of Cornell University, Ithaca, exhibited a very unique specimen, the brain of the cat lacking the Callosum, and read a paper on the alleged homology of the Carnivora Fissura Cruciate, with the Primata Fissura Centralis. Great interest was manifested in Prof. Wilder's able essay.

Dr. E. C. Spitzka, of New York, presented a lesion of the Stratum Intermedium, with remarks in the Anatomy and Physiology of that tract, illustrated by specimens.

Dr. W. J. Morton, of New York, spoke on the treatment of Migraine. At the evening session, Dr. C. L. Dana, of New York, presented a paper on the treatment of Chorea by the Sedative Galvanization of the Brain.

Prof. Burt G. Wilder, of Ithaca, read a paper on the removal and preservation of the human brain, and presented some points in the Anatomy of the human brain. Interesting discussions followed the reading of each paper.

## EDITORIAL DEPARTMENT.

SUICIDE.—A writer on this subject in the last number of the "London Journal of Psychological Medicine and Mental Pathology," whom we suspect to be the talented Editor, Dr. L. S. Forbes Winslow, says: The very freedom with which, in civilized countries, higher professional posts are thrown open to ambitious competitors, encourages a struggle that entails the most evils as a nearer or remote consequence. It may not be at once, that the strain of intellectual efforts betrays itself, although it is no uncommon thing for overwrought school children to show signs of the injury they endure from over stimulation of their powers. Later on in life, however, the system yields to excessive pressure brought to bear on it, weakened in all such cases by undue exertions in previous years, ere yet the full strength of maturity had been gained, and the unfortunate victim of false education degenerates either to a life-long lunatic, or at once ends existence by his own act. For this termination to many promising careers, it is possible to blame nothing so much as this antiquated method of education adapted in the present day. Though it is so far true that the advancement of instruction and suicide appears to go hand in hand in all civilized countries, yet it is by no means so certain that the two *need* to be thus miserably associated. It must surely be conceivable that mental training of young children might be conducted on principles which, though differing widely from the method now in use, should nevertheless be equally useful with it in developing to the almost *healthy* extent the capacities of the mind entrusted to its exponent's care. The sad truth that must be forced is the stern and cruel lesson of the past, a lesson which teaches how invariably insufficient are the

methods so long deemed all-sufficing, how grossly inadequate to produce the looked for result, and how, by prematurely forcing the intelligence of school children, we have, in reality, been creating in many instances the nucleus of a future lunatic and possible suicide. Little as we know with certainty concerning the physical basis of madness, we are guilty of no presumption in judging that a wholly healthy brain forms no part of the insane person's organism, or that until some sort of structural change (unrecognizable by existing aids to observation though it may be) has taken place in the brain, the phenomena of madness are not exhibited. Every such change, however, must be set up through the action of a cause and what that cause precisely is, should be the principal object of search to the practical Psychologist and Alienist. Recent events seem largely to indicate that many other forces are at work amidst the supposed influences of civilization, to extend the area of mental affliction; and that, considerable though it may be in determining suicidal forms of madness, education is not alone in promoting those cerebral disturbances that result in the development of insanity. Difficult as it is to discuss the necessary relations between emotional state and brain mischief, and careful as we must needs be in defining the limits and meanings of the terms employed, it is yet very essential that this aspect of the question should not be passed unnoticed. In the hyper-sensitive and hyper-emotional sections of society, but a slight incentive is needed to develop even extravagant outbursts of excitement, the direction of which is mainly determined by the ruling influence of the time. We are familiar just now with that phase of religious excitement, reaching in many cases to actual temporary mania, which is associated with salvation revivalism, and which most large towns in the country have witnessed to some extent through the operation of the Salvation Army. *All purely emotional disturbances of masses of people are attended with the development of a higher proportional degree of insanity.* It is easy to perceive that constant excitement, and the presence of a ceaseless anxiety in

respect to personal well-being, must react in a serious manner upon the organization of the individual so affected, while the nervous system will in all such cases be peculiarly liable to especial disturbances. The very intensity of a convict's convictions will be detrimental to his mental stability. The keenest observers in the ranks of medicine are convinced that a close connection exists between emotional excitement of an extreme degree and serious cerebral disturbances. Great socialistic movements, while initiated by men of intellectual superiority, sway injuriously a large class of minds untrained and not armed against the reactionary power exerted by disappointments and failures to which all great schemes, and especially those involving social revolutions, must in all times be liable. In these periods of depression, reproach, remorse and despair, find ready entrance to the minds of unfortunate speculators in possibilities, and the weakest of them will not be proof against the blank misery facing them, or able to withstand the temptation to avoid its horrors. That some such cause as this is in operation at the present time in every civilized State is assuredly true; and equally true also is it that this is a natural and predicable consequence of that progress in civilization which is one of our proudest boasts. We cannot improve at no cost to ourselves, and the most terrible price we pay is unquestionably that which is reckoned in the annual sacrifice of life by suicide. There is a direct dependence of the suicidal tendency on disorganization of the cerebral functions. It may be insidious in action, unnoticed and unnoticable, until attaining a limit at which normal action gives way to abnormal; but as surely as the regular processes by which the health of the brain and its surroundings is maintained, are disturbed, so surely will this disturbance sooner or later result in manifestations of mental derangement.

MY ASYLUM LIFE—BY A PHYSICIAN.

The July number of Lippincott's Magazine contains an interesting and instructive article. We commend its per-



usal to our readers. It has many suggestions and experiences of value. Without dwelling on the peculiarities of the delusions spoken of, there are a few points made, well worth noticing :

1. The importance of extra care on the part of alienists for the excitement and revulsions of feeling, naturally attending arrest and commitments.

2 The exasperation and excitement created and caused in the insane by confinements, restraints and locked doors. Try the effect on a perfectly sane man of locking him in a room, against his will without cause.

3. That lack of occupation is the most terrible strain upon the insane, and its effects most disastrous upon them.

4. That the life and surroundings of Asylum Superintendents tend to create in them the belief that they are, above all others, fit to decide upon Asylum Cases.

(b) That Asylum life and treatment is most desirable for all forms of insanity, even cases of harmless insanity.

(c) To make them ignore and disregard too carelessly physical suffering so commonly endured and complained of by the insane.

5. The general asylum opinion, that the patient should not see friends or relations frequently, especially when first confined.

6. That very many insane persons are confined and restrained in asylums who do not need the restraint of an asylum, and who would be better off out of its restraints.

#### THE CRIMINAL SPREAD OF INFECTION.

Judge Dixon, of New Jersey, in a recent charge to the grand jury at Paterson, called their attention to the case of a man employed at the pest-house in that city as nurse to a small-pox patient, and who, having the germs of infectious disease about him, went recklessly to his family, communicating the disease to his children, one of whom died. In

commenting on this case he said : " If a man, conscious that he carries about with him the germs of contagious disease, recklessly exposes the health and lives of others, he is a public nuisance and a criminal, and may be held answerable for the results of his conduct. If death occurs through his recklessness, he may be indicted for manslaughter. It is held that where a person knowingly communicates a contagious disease to another and death results, the crime is that of manslaughter." Judge Dixon furthermore added : " The man may be indicted also for spreading the disease by conscious exposure of others thereto, by his presence in public places, such as on the streets, in halls, etc. He might be indicted as a public nuisance for endangering the public health in this way even if no consequences had followed. The law provides some penalty for such offenses against the public safety."—*Boston Medical and Surgical Journal*.

RECENT PROGRESS IN SCIENTIFIC, CLINICAL AND FORENSIC  
PSYCHIATRY AND NEUROLOGY.

MARRIAGE IN NEUROTIC SUBJECTS.—Dr. Geo. H. Savage, of the Bethlehem Hospital in London, in an address in February, 1883, says respecting marriage in Neurotic subjects, that he does not believe that hysteria is generally benefited by marriage. He is decidedly against the marriage of epileptics. There is great danger to the offspring. Insane people have no right to marry. Maudsley says that there is a decided chance for genius in the offspring of Neurotic parents. Dr. Savage would say to a person asking if she might marry : " If you have strong insane inheritance, and if you have had already one attack occurring at about 20 years of age, more especially if there has been a tendency to hysteria or other emotional disturbance, you will marry at very great risk of breaking down after childbirth, and your future partner must be warned of this fact." If the insanity has been merely accidental, the chances of recurrence are less. None of us (alienists) are in a position to say what cases will or will not recur.

The danger to the offspring is directly in relationship to the active insanity itself. The danger to Neurotic subjects in marriage, is that they may develop insanity, they may develop hysteria, and they may develop epilepsy, as a result of the marriage. They may develop insanity after childbirth, or if the children are prevented, they still may develop nervous symptoms, and even though the marriage is put off till past the childbearing period, yet the patients are not safe from attacks of nervous disease. Marriage will relieve a certain number of hysterical cases, and it is justifiable in a certain number of cases who have suffered from insanity. We should never advise marriage as a cure for hysteria without warning the friends that it may or may not be beneficial. (Journal of Mental Science, April, 1883.) Dr. C. H. Hughes, of St. Louis, wisely says: that marriage of all insane persons at certain ages should be interdicted by law, and the victims also of such diseases as entail insanity or epilepsia, should also be forbidden to enter into matrimony before the sterile time. In behalf of the rights of the insane, who would wish to have a maimed offspring, if under the dominion of their right reason, it should be lawful for proper persons to forbid such disastrous bans, and the duty of the State to prevent them. It is a terrible thing for the State to tacitly consent to such deterioration of the race as is caused by such marriages; and duty to humanity, sane and insane, demands repressive legislation. No "pestilence that walked in darkness, or destruction that has wasted at noon-day," ever called more loudly for State intervention against their spread, than the distinctive heritage of the neuropathic diathesis calls for the concern of the State. Its evil influences are all about us, even more disastrous than any plague or pestilence, afflicting the humblest citizen as well as the highest, and their posterity.

THE RIGHTS OF THE INSANE.—A recent number of the *Alienist and Neurologist* contains an able paper on this sub-

ject, from the pen of the Editor, Dr. C. N. Hughes. The Doctor, an able practical alienist, says: "as the determination of the question of disease in general by an ordinary jury trial must obviously be very unsatisfactory and unjust to the afflicted, so must such an inquiry in special cases of mental disease sometimes jeopardize the interests of the really insane, as in times of great public excitement, and in localities where prejudice has grown up against the plea by reason of previous escapes of the guilty upon it, through misuse and misapplication of the hypothetical case." At such times and occasions it would seem only just to the insane for the court to order medical expert commissions, selected from remote distances, to deliberate upon and determine the question of the prisoner's mental status from personal examination, and all obtainable evidence. Finally, a proper regard for the rights of the insane before the law should secure for them rulings by courts in accordance with the nature of their melody as shown by clinical experience, rather in accordance with those theoretical conceptions of courts, which are often judicial misconceptions of insanity. Such judicial rulings as declare that evidence of the existence of the knowledge of right and wrong in the mind is evidence of responsibility, regardless of the overmastering influences of those resistless morbid impressions, which are common to and characteristic of certain forms and phases of mental aberration, do violence to the social rights of the insane, and to that just protection due to the helplessness of disease, from the rational and powerful to protect or crush them. Insanity is a law unto itself, and is no respecter of the theoretical boundaries with which jurists have sought to circumscribe it. We know from observation of this malady, *that an abstract knowledge of right and wrong may exist in a mind rendered powerless, by reason of overmastering disease, to resist the wrong and morbid impulsion*, as may be demonstrated in many cases in asylums for the insane. A really insane person is entitled to judicial rulings in accordance with the facts and truth of his malady, whether it conflicts or conforms with non-medical conceptions

of what the nature of insanity ought to be. An insane murderer, with certain exceptions, notably those of temporary puerperal mania, should be under the State's surveillance *for life*, and law should secure to the lunatic and the community this protection against the possible consequences of disease. The last right of the insane, but not the least, is the right to medical inquiry, in lieu of the ordinary trial by jury, into the question of their insanity, before committing them to asylum care and custody. Such an inquiry, and so conducted as might not aggravate the sick man's malady, by undue causes of irritation or needless publicity, or jeopardize his chances of timely hospital treatment, by a verdict of "not insane enough for hospital treatment, because not yet dangerous to self or others, or a disturber of the public peace." Such a thorough, unimpassioned medical inquiry as would certainly reach the true nature and needs of his malady—and such an inquiry is best secured by men competent from experience to investigate the nature of mental disease. A last incidental right of the insane is to have proper instruction, in regard to insanity, provided for in the medical schools, and we make this demand for them, that henceforth no medical college shall be chartered that does not provide a chair of Psychiatry. The true friends of the insane are in the medical profession, and its members should understand them.

THE PSYCHOLOGY OF CRIME—The Physician and Jurist will be alike interested in the perusal of the presentation of this question as it appears in the last chapter of Dr. Mann's book, "A Manual of Psychological Medicine, etc." It shows the close relation existing between Insanity, Crime and Suicide. Dr. Mann's views agree in the main with those of Despine, in France; Thompson, Nicholson and Maudsley, in England; Lombroso and Virgilio, in Italy, that degeneration or criminal psychoses affect the constitution in all its functions, from the cerebral to the morphological. We hope



that a careful reading of this chapter may stimulate in alienists and jurists the desire to institute a systematic and universal research in this almost unexplored field of mental pathology. The materials are abundantly accessible. Let us hope they will be utilized in the interests of the science and practice of cerebral medicine.

IMPULSIVE INSANITY.—The great diagnostic point is, that there are no delusions. The morbid impulse is satisfied and exploded in the act of violence. Impulsive maniacs often commit homicides. The period *just after* the committal of an insane or homicidal act is probably the one in which fewest symptoms of insanity will be noticed. The period *immediately preceding* these acts demand our closest scrutiny, as we generally can see at that time strange and altered looks and conduct of the patient. Important medico-legal points are his former attacks, and the question whether there have been noticed periods of slight depression indicating an insane diathesis. Also as to whether the patient or prisoner slept badly or has taken less nourishment than usual. The nature and character of the acts; the presence or absence of motive; the fact of the victim of his acts being near and dear, all tend to excite strong suspicion of insanity. An important question is, does he remember what has occurred after his acts of violence, or does there seem to be an unconciousness of his acts? If so, they may be epileptic attacks. In these cases of impulsive insanity the family is *saturated* with insanity, and close inquiries as to grand-parents, mothers and sisters and uncles and aunts, it will often be found that many of these relatives are practically insane persons. When this is so, we often find that from youth the patient has been odd or eccentric. The fact of indications of insanity about the age of puberty would be of value in such a case. Impulsions toward suicide and homicide, if the person had shown them, would be *sure* indications of the insane blood that he has inherited. We should look closely for

epilepsy, where, sometimes, the only indications are nocturnal micturition or a bitten tongue. These last are unfavorable cases, and when sent to an asylum should not be released except under great and special precautions.

MORAL OR EMOTIONAL INSANITY PROPER—AFFECTIVE INSANITY OR REASONING MANIA.—These terms all indicate a distinct phase or type of insanity in which the insane *actions and conduct* are shown, rather than insane ideas, delusions or hallucinations. These persons seem to be unsound in the moral and emotional part of their brain. There is an entire change of character and habits, evinced by extraordinary acts and conduct, extravagance or parsimony, false assertions and false views concerning those nearest and dearest, without absolute delusion. Its approach is gradual rather than sudden, and the extraordinary character of the acts may not at first be so marked as subsequently. Friends wonder that a man should say this or that, or do things so foreign to his nature and habits, but some time may elapse before they can convince themselves that such conduct is the result of disease, and the acts may be such that many will look upon them to the last as signs merely of depravity. When the insanity is well marked and the conduct is outrageous, there will be no difficulty in the diagnosis. But it may be less marked and it may consist of false and malevolent assertions concerning people, even the nearest relatives, of plots and traps to annoy others, in which great ingenuity and cunning may be displayed, and there will be the greatest plausibility in the story by which all such acts and all other acts will be explained away and excused. *Where we can ascertain that this condition of things is something which has come on the patient, being formerly absent, and that a man is altogether changed, we may suspect insanity.* Such people are very acute, on the alert, have no scruples about falsehood, and will deny or justify everything with which they are charged. Where the insanity is manifested in conduct, the physician may never be a wit-

ness of it and is obliged to receive on hearsay that which the patient denies most strenuously. There may be in these cases a period, though short, of acute insanity, or acute mania or melancholia, which passes away and leaves a permanent condition of affective or reasoning insanity, or this may be a precursor of a more advanced style of insanity marked by the ordinary symptoms of delusions and hallucinations. If the change has been rapid and progressing, if the patient has become more outrageous and eccentric, it is likely that in a short time unmistakable insanity will be displayed. He may develop general paralysis. His condition may be one of the alternating stages of circular insanity, (*Folio Circulaire*) in which state a period of depression alternates with one of excitement, gaiety, self-glorification or irascibility. The one constant and marked feature of affective or emotional insanity proper, is *the absence of delusion*. The intellect is not, however, sound. There is great acuteness and cunning displayed by such patients, and yet the most silly conduct, as, for instance, defending and justifying the most outrageous conduct, and they cannot be made to see that such acts are outrageous. Close examination will probably reveal the fact that there is considerable intellectual lesion in these cases. There is a want of the power of attention and concentration of ideas on a subject. The patient commences the story of his grievances and in two minutes is far away from his theme and boasting of his virtues or conduct, and no amount of bringing back will enable him to give a definite and distinct account of what he has to complain of. There is one last form of moral or affective insanity, the hardest of all to diagnose and estimate. It is the congenital moral defect occasionally met with in persons who have been from birth odd and peculiar, and incapable of behaving like other people. They may have some intellect, and even genius in certain directions; we find that they are the offspring of parents tainted with insanity, and in childhood very likely have had fits, St. Vitus' dance, or other diseases. They are often very cruel

towards animals or their brothers and sisters, and seem utterly incapable of telling the truth, or understanding why they should do so. They have, so to speak, a criminal nature, a true, moral imbecility, and it is very difficult to say how far they are responsible.

The foregoing represents the views of Dr. G. F. Blandford, of England, one of the ablest practical alienists abroad, and his views are entitled to great respect and consideration, as he has earned the right to speak authoritatively respecting the forms of insanity we have been considering, which give use to so many diverse opinions in criminal trials where insanity is advanced as a plea for defense.

THE ROSE AMBLER CASE, in Stratford, Connecticut, seems so far to bear emphatic testimony to the value of Medico-Legal science. At any rate, to date, no clue to the murderer appears to be looked or hoped for in any other than the direction of careful medico-legal study of the indicia of the crime and death. The danger lies in the non-expert character of the officers to whom this duty may fall, in the absence of instruction. This instruction it is the duty of the Coroners and District-Attorneys to acquire, for the safety of their communities, and the aim of the Medico-Legal Society of the City of New York and of this JOURNAL to distribute and supply.

SOCIETY OF PSYCHIATRY AND LEGAL PSYCHOLOGY OF VIENNA AUSTRIA.—We publish in this number a resume of the transactions of this Austrian Society in the labors of which the Medico-Legal Society of New York must take a deep interest.

At the annual election of May, 1882, the following officers were elected for the years 1882 and 1883 :

M. Meynert, President, re-elected; M. Hoffman, Vice-President; M. Holler, Treasurer; M. Hollcender and Von Pfungen, Secretaries; Administrative Council, M.M. Wimmer, Pohl, Fritsh Pfleger.

PROF. BENJ. BALL.—We are glad to notice the election at the June session of 1883, of Prof. Benj. Ball, to membership in the Academy of Medicine, of France, who has recently been elected a corresponding member of this Society. Prof. Ball has completed his important work, "*Leçons sur les Maladies Mentales*," a volume of nearly nine hundred pages, which we hope to notice in our next number.

ROYAL SOCIETY OF MEDICAL AND NATURAL SCIENCE OF BRUSSELS, BELGIUM.—The annual meeting was held July 2, 1883, under the Presidency of M. Sacré, the body elected for President, M. Rommelaere; for Vice-President, M. Terifahy, who were installed.

SHAKESPEARE'S BONES.—At the risk of appearing Ghoulish and Delia Bacon-ish we must say that the proposition to submit Shakespeare's bones to anatomical and phrenological examination does not seem even premature. The intense interest in William Shakespeare and all that synchronizes with or affects him or his time will, sooner or later, most undoubtedly culminate in just that—nay, must culminate in that act and no other. Grave doubts have arisen and are finding listeners on every side. Such men as Matthew Arnold and Dr. O. W. Holmes have been affected by the controversy as to a Shakespearean authorship, and even the great Tyndal has declared that in an internal examination of the scientific equipments of the author of the *novum organon* and of the plays—there is nothing to make a Baconian authorship of the latter impossible.

That England should have been ransacked for two hundred years, and be undergoing a re-ransacking to-day for personal Shakespearean remains, when, a few feet below the channel of society, at Stratford lies perfectly undisturbed, all that is structural of the man himself is certainly a slavish regard to a so-called curse, unique and a curiosity in nineteenth century procedures. But taking the curse for all it is



worth, there is surely no prohibition against reverent examination.

In continental countries they invariably scrape the bones of their Saints and display them permanently in glass cases in the cathedrals.

Christopher Columbus does not, at any rate, rest in his grave as quietly as William Shakespeare. The ashes of the great discoverer, first buried at Seville, have been moved about, till they finally lie in the Cathedral of Saint Domingo, and now they are to be turned out of their resting-place and enclosed in a plate glass urn.

Then, after the Shakespeareans have scraped William Shakespeare's bones, the Baconians can proceed to St. Alban's and scrape Francis Bacon's if they feel so disposed. So long as William's own be not removed from the pile of Trinity, we cannot see in the "Curst be he that moves my bones," any jurisdiction over English scientists or that William's own wish (admitting it to have been his wish) would be in any way disregarded by the process proposed. The good Rector of Trinity evidently assumes this view, for he has consented that the scrutiny be made. But, up to date, the Beefeaters composing its Wardens and Vestry, appear to be an obstacle. There seems to be no nonsense about these gentlemen, and they have notified whom it may concern that the exhumation may go on—only, that if the exhumers attempt to open William's grave, they will be forthwith pitched into the Avon!

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#### RECENT LEGAL DECISIONS.

**HOMICIDE—THREATS—INSANITY.**—Threats of accused made thirty years before the homicide, when the accused was a lad of fifteen years of age, accompanied by other evidence of long-continued hostility of the accused towards the deceased—*held*, admissible as evidence, but remoteness of threats from the time of the homicide is a circumstance to be con-

sidered in determining the weight and effect to be assigned to them. A judgment of a commission of lunacy, finding that the accused is a fit person for incarceration in the State insane hospital, is not conclusive upon the question of his insanity.—*Goodwin v. The State*, Sup. Ct. Ind., Crim. L. Mag., July, 1883.

INSANITY—BURDEN OF PROOF.—The presumption of sanity operates as evidence in behalf of the State, and, if the other evidence on the part of the State does not overthrow it, the State may rest upon it, and when the plea of insanity is in, the question is before the jury and is to be passed upon by them whether the defendant has introduced any evidence upon the subject or not.—*McDougal v. The State*, Sup. Ct. Ind., Crim. L. Mag., July, 1883.

RIGHT TO WITHDRAW PLEA OF GUILTY IN CAPITAL CASE—A young man, about nineteen years of age, who had lately come to this country, and who was entirely ignorant of the English language, was indicted for murder, and, without the appointment and advice of counsel, confessed to the killing, through an interpreter, who informed the court that the accused acted and talked almost like an idiot, and that he did not believe the accused fully comprehended his situation, whereupon the court entered a plea of guilty, and pronounced sentence of death, and afterward refused an application of the defendant to withdraw his plea of guilty. *Held*, that the court erred, under the circumstances of the case, in accepting and entering the plea of guilty, and also in refusing to allow its withdrawal.—*Gardner v. The People*, Sup. Ct. Ill., Leg. Adv., July 31, 1883.

USE OF INTOXICATING LIQUORS BY JURORS.—The use of intoxicating liquors by jurors while engaged in the consideration of a case will not vitiate their verdict unless it is affirmatively shown that the party complaining has been prejudiced

by the conduct of the jury. The same rule is to be applied in reference to the action of a jury in attending a theatre by permission of the court while a trial was pending.—*Jones v. The People*, Sup. Ct. Col., Rep., July 11, 1883.

WITNESS WITH IMPAIRED MIND.—A witness whose mind is feeble so that his statements are not always direct and clear, but are not incoherent or unintelligible, but evince a full knowledge of the matter in relation to which he testifies, is not incompetent. In an action for injury from a fall, caused by a defective sidewalk, *held*, that evidence that other persons than the person for whose injury the action was brought had fallen at the same place was admissible.—*District of Columbia v. Ames*, U. S. Sup. Ct., Am. L. Rec., July, 1883; Cent. L. J., July 20, 1883; Cin. L. Bul., August 6, 1883.

INSURANCE (ACCIDENT POLICY)—UNCONSCIOUS CONDITION OF MIND.—Plaintiff alleged, in an action on a policy of accident insurance, that while a passenger on a train of cars he fell asleep from weariness and the motion of the car, and that while so unconscious he arose from his seat and went to the platform of the car and fell therefrom to the ground, sustaining injury. On demurrer, *held*, that the complaint stated a cause of action.—*Scheiderer v. Trav. Ins. Co.*, Sup. Ct. Wis., Rep., August 1, 1883; West. Ins. Rev., July, 1883.

NEGLIGENCE—SALE OF POISONS.—The sale by a druggist of a poisonous preparation without the word "poison" on the label, is not negligence when the purchaser is warned at the time of the sale of the dangerous nature of the medicine, and informed of the proper dose, notwithstanding the fact of the omission to place the word "poison" on the label constituted a misdemeanor. But the sale of such a preparation without the word "poison" on the label, and without such warning is negligence both at common law and under the statute.—*Wolkfahrt v. Deckert*, Ct. App. N. Y., Cent. L. J., July 20, 1883.

DR. GRAY ON THE RIGHTS OF THE INSANE.—*The American Journal of Insanity* devotes some twenty-two pages of its April number to a rather severe and caustic criticism of the paper of Mr. Clark Bell on the above topic, delivered before the National Association, for the protection of the insane and the prevention of insanity, at Philadelphia, last January, which appeared in the first number of the *American Psychological Journal*. The learned editor falls into an error in saying that it appears to have been delivered before this latter association in the name or behalf of the Medico-Legal Society of New York. The address was never read before the New York Society, nor in any wise submitted to it, and cannot be said in any way to voice its sentiments. The author, Mr. Bell, is alone responsible for its utterances. Dr. Gray, the honored Superintendent of the State Asylum at Utica, who is the President of the Association of Medical Superintendents of American Institutions for the Insane, might, with equal force, be said to commit that Association to the remarkable doctrines of his paper, as to claim that Mr. Bell's paper reflects the actions or views of the Medico-Legal Society of New York.

This idea of holding an Association responsible for what its President says or is supposed to say, or believe, has wrought great injustice, and misled many as to the position of the Association of Medical Superintendents of American Institutions for the Insane, with regard to the peculiar views its President, Dr. Gray, holds or is supposed to hold, and notably upon the questions now involved and discussed in Lunacy Reform, in the use of mechanical and other restraints in the care of the insane, in the propriety of a Board of Lunacy Commissioners, with full powers or provisions for a thorough and efficient visitation of the insane, and particularly for some State Board or authority to whom Superintendents of the Insane having charge of the institutions should be responsible. The position of the Medico-Legal Society of New York would, perhaps, be nearer obtained from the report of its Permanent Commission submitted to the

Senate of the State of New York last winter, in answer to the circular of the Attorney-General of the State and State Commissioners in Lunacy, requesting answer to the Senate resolution regarding needed reforms in existing laws.

The criticisms of the *American Journal of Insanity* we see are replied to with spirit by Dr. Joseph Parish, in the *American Psychological Journal*.

#### THE MEDICO-LEGAL SOCIETY.

SUBSCRIPTIONS FOR THE LIBRARY.—The undersigned, members of The Medico-Legal Society, hereby promise and agree to donate to the Library, annually, from January 4th, 1882, at least one bound volume upon medical jurisprudence, or its equivalent in pamphlets or cash, so long as we remain members of the Society.

Dated February, 1882.

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LIST OF PERSONS, who have been discharged from Insane Asylums by legal proceeding on Habeas Corpus, in the State of New York, since July 1, 1882, as furnished by one of the discharged.

Name.	Confined.	Examined.	Discharged.	Asylum.
		1882.		
Samuel Obreight,	2 months,	June,	July 8,	Middletown.
Thos. D. Maitland,	10 "	August,	Aug. 18,	Wards Island
William Keating,	22 "	August,	Oct. 12,	" "
Charles Jackson,	2 years,	August.	Nov. 1,	" "
Emily Lucy Laurent,	6 months,	August,	Sept.,	Blackwells Island
Wm. J. Hamilton,	6 years,	October,	October,	Wards Island.
Harry W. Coles,	2 weeks,	Nov.,	Nov.,	Amityville, L. I.
Thos. F. Wade,	6 months,	Sept.,	Sept.,	Middletown.
Henry Prouse Cooper,	2 "	Dec.,	Dec. 20,	Flushing, L. I.
James Donovan,	5 years,	August,	August,	Wards Island.
Jas. B. Silkman,	3 months,	May,	August,	Utica.
Mrs. Lathrop,	2 years,	Dec.,	Dec ,	"
Mrs. Collins,	2 "	Sept.,	Nov.,	"
John McNamara,	4 "	July,	August,	Flushing, L. I.
Marlin L. Smith,	5 yrs. 4 mos.	Nov.,	Dec ,	Wards Island.
Edward Stanton,	2 years,	Nov.,	Dec.,	Utica.
		1883.	1883.	
Chas. Stewart Harford,	2 "	July,	July,	Wards Island.
Edward Pride,				Flatbush, L. I.
Lewis W. Sloat,	3 yrs. 10 mos.		May,	Harts Island.

## JOURNALS AND BOOKS.

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**SANITARY LAW**—By Prof. H. Aubrey Husband, M. B. C. M. (E. & S. Livingstone, Edinburgh.) This, the latest work of Prof. Aubrey, a corresponding member of the Medico-Legal Society, is a digest of the various Sanitary acts of England and Scotland.

The work contains the substance of a course of lectures on Sanitary law, delivered by the distinguished gentleman in the Extra Mural Medical School of Edinburgh, and opens with a sketch of the Sanitary laws of England, prior to the Public Health Act of 1875, which it digests fully and minutely. The work notices the various laws subsequently passed, relating to both England and Scotland, and analyses each act by itself. The whole concludes with a complete table of questions, for students, which, if used, would enable the reader to fasten the subject in his memory. It is a valuable compilation, and we should be glad to see a similar work on the laws of New York, or of any of the American States.

**DISEASES OF THE NERVOUS SYSTEM**—By Samuel Wilks, M.D., F.R.S. (P. Blakiston, Son & Co., Philadelphia.) 1883, 2d Edition, 600 pp. This is a new and elegant edition of Dr. Wilks' work, originally published in 1878, made necessary by the advances made in Scientific research and discovery in special subjects, notably hemi-anæsthesia, its treatment by the French School, (and other diseases,) and also to conform to the classifications of special diseases, used by

Erb and other German writers, so commonly followed by English authors.

The author gives credit to the labors of Dr. Horatio Donkin, in the preparation and arrangement of the work.

The work is divided into 4 parts, viz : Brain, Spinal Cord, General and Functional Diseases, and Nerves.

The Brain is treated in its Anatomy Physiology, and all its known diseases—as is the Spinal Cord. The management of the General and Functional Diseases embraces able chapters on Epilepsy, Chorea, Tetanus, Intermittent Fever, Hydrophobia, Hysteria, Hypochondriasis, among others. In the last part on the Nerves, the writer speaks exhaustively on Neurologia, Local Paralysis (legs,) Spasmodic affection of Muscles and Remedies, with a special mention of Electricity.

The volume is an important contribution to the literature of nervous diseases.

QUIZ COMPENDS.—Chemistry, by Dr. Ward. Visceral Anatomy, Dr. Potter. (P. Blakiston, Son & Co., Philadelphia, 1883.)

These small volumes are well worth a place in a Physicians library. Dr. Ward's Book, *Chemistry*, is a compact but complete epitome of chemistry, giving a table of the elements, their symbols, weights, atomicity, specific gravity, discoverer, derivation of name, electrical condition and fusion point if a metal. In a hand-book you can find in a moment any of these with their compounds.

Dr. Potter's Book on Visceral Anatomy is a series of questions and illustrated answers, which in brief space go well over all the organs of digestion, respiration, urination, generation, and the organs of sense.

They must be invaluable to the student.

IDIOCY AND IMBECILITY—By William W. Ireland, M.D. (J. & A. Churchill, New Burlington Street, London, 1877.) (P. Blakiston, Son & Co., Philadelphia.)

The London Edition of this work is upon our table, and is a fine volume of 413 pp., well illustrated, divided into 21 chapters, and is a comprehensive and systematic treatise upon the whole subject, with its various classifications.

Dr. Ireland defines Idiocy, and furnishes some valuable and interesting statistics concerning it. He classifies it with great minuteness, as follows: Geneteous, Microcephalic, Eclampsic, Epileptic Hydrocephalic, Paralytic Traumatic Inflammatory, Cretinism and Idiocy, by deprivation, to each of which classes he devotes a chapter. He then treats of the characters, growth, education, care laws, sensory and mental deficiencies of idiots, and of insanity in children and insane idiots, with valuable statistics and tables concerning them, which can not fail to interest either profession interested in forensic studies. Dr. Ireland has recently been elected a corresponding member of the Medico-Legal Society of New York, and is a graceful writer and contributor to Journals in Great Britain, on subjects germane to the science. P. Blakiston, Son & Co., are the American publishers of this valuable work.

**BODY AND WILL**—By Henry Maudsley, M.D. (Kegan, Paul, Trench & Co., London, 1883.)

The fame acquired by Dr. Maudsley, by his earlier writings, especially on our side the Atlantic, make the public anxious to see any new work from his gifted pen.

His last production, just issued, he entitles "Body and Will," being an essay concerning Will in its Metaphysical, Physiological and Pathological Aspects.

We find the same attractive style that we have all seen; and while he treats of a subject in which a smaller class will take interest, than in some of his previous and enormously popular works, his chapters on Involution and Evolution and upon Mental Evolution and the Social Medium, will attract some doubtless who have not read his earlier writings.

The chapters on "Degeneration of Moral Feeling and Will

in Disease," the Moral sense and will in Criminals, and "Disorders of Will in Mental Derangement," will interest all students of Medical Jurisprudence, and we hope to find space for some or one of them in this Journal. Dr. Maudsley is an honorary member of the Medico-Legal Society, and it is a source of great regret that his sudden departure for home, earlier than his previous arrangement of plans, deprived the members of that body from paying him a tribute of respect on the occasion of his flying visit.

THE ALIENIST AND NEUROLOGIST.—Edited by Dr. C. H. Hughes, of St. Louis, is a quarterly of great value in its domain, and is well worthy the support of lawyers and physicians interested in forensic psychical or neurological studies.

It has been sent this JOURNAL in exchange, and the January, April and July numbers are on our table. It contains original articles of merit from various writers of eminence, in this and foreign countries, connected with Medical Jurisprudence, and reviews of germane current literature from both sides of the Atlantic. Among its most important articles are, in the January number, "The Curability of Insanity," by Pliny Earle, M.D.; "Case of Sexual Perversion," by P. M. Nice, M.D.; "Female Diseases among the Insane," by T. Daniillo, St. Petersburg, Russia.

In the April number, "The Rights of the Insane," by C. H. Hughes, M.D.; "Guiteau," by J. J. Elwell, of Cleveland; "The importance of a Knowledge of Insanity, by the General Practitioner of Medicine," by Ira Russell, M.D.; Folie A Deux, its forensic aspects, by Jas. G. Kiernan, M.D., and "Development, Movement and Transmission of Mind," by Cecelia Dean, M.D.

In the July number, "The Limitation of Insanity by the Insane," by Dr. C. H. Hughes, "Syphilis, in its relation to progressive Paresis," by Jas. G. Kiernan, M.D., "Concealed Insanity," by Dr. Brown, M.D., and Prof. Golgi's



admirable paper on the Minute Anatomy of the Central Nervous System is concluded, being a translation by Dr. Joseph Workman from *La Ravista Sperimentale*.

The journal is ably edited, and certainly deserves to succeed.

**THE ST. LOUIS COURIER OF MEDICINE**—On our table, received in our exchanges, is a monthly journal published by J. H. Chambers & Co., for the Medical Journal Association of the Mississippi Valley. The September number contains several articles of medico-legal interest. "Do Maternal impressions influence the growth of the Embryo," by N. M. Baskell, M.D.; "Comparative Morbidity in the two Sexes," by P. V. Schenck, M.D. Dr. J. Friedman, of St. Louis, cites three cases where morphine operated successfully as an antidote for poisoning by chloroform taken internally. The journal is creditable in its appearance, and must wield a favorable influence in its section of the Union.

**ARCHIVES OF MEDICINE**.—A bi-monthly journal edited by E. C. Seguin, M.D., and R. W. Amidon, M.D., (G. P. Putnam's Sons,) is upon our list of exchanges. The August number is No. 1 of Vol. 10. Among its articles of interest to our readers, we notice "The internal capsule of the Cerebrum, and the diagnosis of Lesions affecting it," by Ambrose L. Ranney, M.D., "The early symptoms of General Paralysis of the Insane," by W. B. Goldsmith, M.D., Superintendent of the Danvers Lunatic Hospital, is a valuable contribution to the literature upon this subject. Dr. Edward Walker contributes an article on "An Unusual Hysterical System Group," and Dr. G. L. Walton, of Boston, "Two cases of Hysteria," of an interesting character.

**CENTRALBLATT FÜR NERVENHEILKUNDE PSYCHIATRIE GERICHTLICHE, PSYCHOPATHOLOGIE. LEIPZIG**.—(George Böhme).—We welcome this valuable journal to our list of exchanges, and

commend it to our readers. It is a bi-monthly, and the July and August numbers are upon our table. It has an especially strong list of collaborateurs, selected from the ablest German names, with one from London, (Dr. Alhaus), one from St. Petersburg, (Hintze); two from Vienna, (Ober-Döbling and Obersteiner). We should be glad to see some names in their list from this country. We have not space to notice the articles, many of which are of great medico-legal interest, but, we are glad to see that this journal notices and criticises many of the important papers and articles contributed by American writers. We hope in future to give this valuable journal a more careful examination, with a note on its more important papers.

DIO LEWIS' MONTHLY.—(Clark Brothers, N. Y.) This is a new venture by Dr. Dio Lewis, starting with the August number of 1883, and issues as a monthly. It is among our exchanges. M. Eugenia Berry contributes to the first number an article on "Insane Asylums," and the editor a short article of interest on the "Weight of Brains." The October number continues the subject on "Weight of Brains," and also contains two interesting articles by the editor, the one entitled "Treatment of Prisoners," the other, "Treatment of the Insane." The journal may fairly be classed among the friends of Lunacy Reform, and will work its way into popular favor.

THE AMERICAN LAW REGISTER.—(D. Canfield & Co., Phil.,) Is a journal of sterling worth and merit, now in its 22d volume, edited by Jas. T. Mitchell and Frank P. Prichard, of Philadelphia; Hon. Edward M. Bennett, of Boston; Hon. Thos. M. Cooley, of Ann Arbor, Mich.; Hon. Eli S. Hammond, of Memphis, Tenn., and Hon. Charles Wood, of Chicago.

The July number reviews recent decisions of the Supreme Courts of Illinois, Pennsylvania, Maine and Ohio, the Court

of Appeals of Kentucky, and gives abstracts of decisions in the Supreme Court of the United States, Court of Errors and Appeals of Maryland, and the Supreme Courts of Illinois, Missouri and Ohio. The August number reviews recent American decisions in the Supreme Courts of Colorado, Minnesota, Pennsylvania, Missouri and of the English House of Lords, and gives abstracts of decisions in the Supreme Court of the United States, and of the States of Georgia, New Jersey, Rhode Island and Wisconsin.

It is an important journal for members of the bar, and deserves support.

THE CENTRAL LAW JOURNAL.—Is in our list of exchanges, published at St. Louis, Mo., by William H. Stevenson, Esq., and is edited by William L. Murfres, Jr. It is a weekly issue published at \$5.00 per annum, is a sprightly legal journal of character and merit, and ably edited, discussing with vigor and force the current legal topics of the day. It devotes no especial space to medical jurisprudence, but occasionally reports and notices cases of interest to students of that science. It is a valuable journal to lawyers.

TRANSACTIONS OF THE MASSACHUSETTS MEDICO-LEGAL SOCIETY.—Vol. 1, No. 5, (1882,) is upon our table, (Riverside Press, Cambridge.) This volume is issued annually by the Association of the Medical Examiners of Massachusetts, who are organized under the name of the Massachusetts Medico-Legal Society. It makes one of the most important contributions to medical jurisprudence in the whole list of annual publications.

Its table of contents will give some idea of the value and character of its labors, we notice

1. "What constitutes a Medico-Legal Autopsy," by S. D. Presbrey, M.D., President of the Society.

2. On the "Habitual use of Poisons," by A. H. Johnson, M.D.

3. "Report of a case of Homicide," by C. C. Tower, M.D.
4. "The Medico-Legal relations of Chronic Alcoholism, its pathological Aspects," by G. K. Sabine, M.D.
5. "Medico-Legal relations of Insanity," by Ira Russell, M.D. It also contains the report of the Executive Board on the Society's work for the year 1881, with the report of a committee "on the collection of data at autopsies," and upon the definition of the word "violence," as used in the Massachusetts law.

Any one of these articles are well worth reproduction in this JOURNAL, and want of space alone now prevents us from extracting from this source some of these valuable contributions. We hope in later issues to have an opportunity to do so.

THE AMERICAN LAW REVIEW.—A Bi-Monthly Journal published by Review Publishing Co., of St. Louis, Lucien Eaton and S. D. Thompson, Editors, is on our list of Exchanges. It has reached its 17th volume, and can be had of Baker, Voorhis & Co., of New York, and Soule & Bugbee, Boston. The September and October No. 5, contains 187 pp., four original articles of merit, "The Future of our Profession," by John M. Shirley, "The Common Law and Statutory Rights of Woman to Office," by Martha Strickland, "The Supreme Court and State Repudiation," "The Virginia and Louisiana Cases," by James A. Pomeroy, and "Former Jeopardy," by Charles E. Batchelder.

It is ably edited, and its Bi-Monthly Digest of cases reported from all the law periodicals is worth twice the subscription price to every practising lawyer in the United States.

AMERICAN CHEMICAL JOURNAL.—Edited by Ira Remsen, Professor of Chemistry in the Johns Hopkins University, is one of the publications of that University, and we welcome it to our list of Exchanges. We noticed and reviewed in our



last issue, Prof. Chittenden's article in the April number, on "Arsenic in a human body," The June number is before us, which contains no article of special medico-legal interest, but the close relation of Toxicology to Chemistry, and the interest taken by both the Legal and Medical professions in Forensic Chemistry, makes each number of this Journal of interest to members of the Medico-Legal Society.

ARCHIVES DE NEUROLOGIE.—Revue Des Maladies Nerveuses et Mentales. Published under the direction of Prof. J. M. Charcot, with an able corps of collaborateurs.

The April and July numbers of this very interesting Journal are upon our table, and we wish to call the attention of all American Students of the science this Journal represents to its excellence and value. It should certainly be upon the shelves of every expert in mental diseases. Its original articles are by strong names. The April number containing three, by M. M. Gette, Vaillard and Ph. Rey, respectively, and the July number one, "De la Cephalie des adolescents," by M. Keller; "Quelque Considerations Sur l'Evolution au delire dans la vesanie," by M. Gerente; "Recherches Cliniques sur la folie avec conscience," par M. Marandon de Montuel; "Notes et observations sur la Microphile," by M. M. Bourneville and Wuillarnie.

It has a department of critical reviews, to which Dr. Richer contributes an article in the April number, "de l'Hystero Epilepsie," and M. Marie in the July number, "de la Maladie de Basedew," and M. M. Bourneville and Seglas one entitled "Du Merycisme."

The Review of Anatomy and of Physiology is from the staff, each writer signing his articles, as is the Department of the Review of nervous Pathology.

One of the most valuable features of this Journal, in its relation to our own, is its published transactions of Foreign Continental Societies, translations of which we shall occasionally give to our readers, prominent among which are



the proceedings of the Societe "Medico-Psychologique" of Paris, of which our recently elected corresponding member, M. Motet, is President.

LA PSICHIATRIA. LA NEUROPATHOLOGIA E LE SCIENZE AFFINI.—We welcome to the list of foreign periodicals this new journal, edited and published in Naples, Italy, under the direction of Profs. G. Buonomo and Dr. L. Bianchi, with an able corps of collaborateurs, among whom we see the names of G. Andriani, Prof. L. Armanni, G. Cantarano, Prof. F. Fedde, and Prof. G. Nicolucci. The first number appeared early in 1883, the preface of which was written by Prof. Buonomo, and is worth a place in our columns, for which we regret not having space in the present number.

Three numbers have already appeared, and we are glad to see the new journal on our list of exchanges. Besides its original articles from the members of the editorial staff or the collaborateurs, each number contains reviews of contemporaneous literature, normal anatomy and pathology of the nervous system, pschiatrical legal medicine, and reviews and notices of journals and books, each of which is signed by the writer.

The editorial work is well done, and we shall hope to avail ourselves from the very rich field of its columns, articles and essays on medico-legal questions and subjects, which we feel sure will be of great interest as well as benefit to our readers.

TWENTY-THIRD AND TWENTY-FOURTH ANNUAL REPORT OF THE GENERAL BOARD OF COMMISSIONERS IN LUNACY FOR SCOTLAND.—We are indebted to the General Board of Commissioners in Lunacy for Scotland for these reports, which give with great detail all the statistics regarding the insane and their treatment in public and private asylums, and which are full of interest to the student of that branch of forensic medicine. We give a few extracts from these reports, which it seems to us must possess general interest in the pending

question involved in proposed reforms in our lunacy laws—under title V., p. 30, 23d Annual Report, entitled Recent changes in the modes of administering Scotch Asylums, the Commissions report as follows: “The most important changes of this character that have taken place of late have been manifested chiefly in three directions:—(1) in the greater amount of liberty accorded to the patients, (2) in the increased attention that is devoted to their industrial occupation, and (3) in the more liberal arrangements that are made for their comfort.”

“*Greater Amount of Liberty now Enjoyed by the Inmates of Asylums.*—The removal of restrictions on liberty has, in one form or other, been the most prominent of all the reforms which have taken place in modern times in the management of the insane. The first steps in this reform were taken, almost simultaneously in France and England, near the end of last century; and they consisted in the attempt to bring about, both by precept and example, the disuse of the chains and fetters which a feeling of terror led the mad-house keeper of that period to believe necessary for the safe custody of those under his charge. The chief motive which then led to an advocacy of the disuse of such apparatus was the wish to relieve those laboring under insanity from what the reformers regarded as unjustifiable cruelty; and the mere liberation of patients from what amounted in many cases to torture of the most painful kind, constituted in itself a great and direct improvement in the condition of the insane. But a scarcely less important improvement followed in the modifications of the discipline and arrangements of asylums, which were the indirect result of the disuse of mechanical restraints. The development of these modifications has indeed gone so far, that it is now held wrong not only to use any form of mechanical restraint of the person, but even to put restriction of any other kind on the liberty of a patient, which cannot be shown to be necessary either for his own welfare or the safety of the public.

The more recent changes in Scotch asylums, which are due to the extension of this principle, have been for the most part such as tended to remove the prison character from the arrangements of asylums, and to assimilate them to the arrangements of private houses. The most important of these have been (1) the abolition of walled airing-courts, (2) the disuse of locked doors, and (3) the extension of the practice

of giving liberty on parole; and we shall comment on these separately.

*The Abolition of Airing-courts.*—In the Haddington District Asylum, which was opened in 1866, airing-courts have never been used. In 1869, the operations undertaken for the enlargement of the Argyll District Asylum, necessitated the removal of considerable portions of the walls of the airing-courts which then existed. To have constructed new airing-courts would at the time have been attended with considerable inconvenience, and it was therefore resolved to endeavor to do without them. The result of this experiment was so satisfactory that the intention to reconstruct walled airing-courts was definitely departed from, and since that time the asylum has been managed without such adjuncts.

It is, of course, evident that walled airing-courts can more easily be dispensed with in an asylum possessed of extensive grounds, than in one which is in the heart of a town, where walls may be needed to protect the patients from intrusive observation by the public. The disadvantages of such situations for asylums are, however, becoming every day more apparent. The number of them so situated is steadily diminishing, and it is not improbable that the growing belief that the condition of the insane is deteriorated by their being cooped up in airing-courts will hasten the removal of the remainder to localities where an adequate extent of land can be obtained. Circumstances such as these perhaps prevent any immediate prospect of the universal abolition of walled airing-courts, but the advantages which result from their disuse are now widely recognized. Most of the public asylums in Scotland are already without them, while in several, where they still exist, they are seldom used. One of the advantages which airing-courts with walls were thought to possess, was their supplying a place where patients suffering from maniacal excitement might work off their morbid energy in safety. It can scarcely be doubted, however, that the association, in confined areas, of patients in this state, either with one another, or with other patients in calmer mental states, is attended with various disadvantages. The presence of one such patient may be the cause of a great amount of excitement, and a source of irritation and annoyance to those confined in an airing-court along with him. After the disuse of the airing-courts, it was found that such patients could be treated satisfactorily in the wider space of the general

grounds. It was found, by placing them more immediately in companionship with the attendants, and by keeping them from collision with other patients, that they could be made to vent much of their excitement with less disorder, and could often be saved from a considerable amount of it altogether.

*The Open-Door System.*—It is only of late years that the disuse of locked doors has been regarded as forming an important feature in the administration of an asylum. Detached houses, or limited sections of the main buildings, the inmates of which consisted chiefly of patients requiring little supervision, have long been conducted in some institutions without locked doors. But the general practice of all large asylums has been to keep the doors of the various wards strictly under lock and key. It was in the Fife and Kinross District Asylum that it was first recognized that this extensive use of the key is unnecessary, and that its disuse is attended with considerable advantages to the patients, not only in removing one of the prison-like features of their abode, but also because it forced the attendants to give more constant and intelligent attention to those under their care.

When an attendant could no longer trust to locked doors for the detention of troublesome and discontented patients, it became necessary that he should keep himself aware at all times of where they were and what they were doing, and it therefore became his interest to engage them in such occupations as would make them contented, to provide an orderly outlet for their energies, and to divert their minds from thoughts of escape. The relations of an attendant to his patients thus assumed less of the character of a jailor, and more the character of a companion or nurse; and it was eventually found that this change in the character of the form of control could be adopted in the treatment of a much larger number of the patients than was at first anticipated. It is not difficult to overestimate the extent to which a desire to escape affects the minds of patients in asylums. The number who form a definite purpose of this kind really constitutes only a very small proportion of them. The special watchfulness required of attendants in guarding against determined efforts to escape, therefore, need be directed to a few only of those under their charge, and it soon becomes habitual to the attendants to keep themselves aware of where those patients are, about whom they entertain doubt. And it should be borne in mind, in regard to this kind of watchfulness, that its



very persistency renders it more easily kept up than if it could be occasionally relaxed. It appeared further that the disuse of locked doors had an influence on some of the patients in diminishing the desire to escape. Under the system of locked doors, a patient with that desire was apt to allow his mind to be engrossed by the idea of watching for the opportunity of an open door, and it was by no means infrequent to find such a patient watching with cat-like eagerness for this chance. The effect of the constantly open door upon such a patient, when the novelty of the thing had worn off, was to deprive him of *special* chances of escape on which to exercise his vigilance, since, so far as doors were to be considered, it was as easy to escape at one time as another; and it was found that the desire often became dormant and inoperative if not called into action by the stimulus of *special* opportunity. It is indeed a thing of common experience that the mere feeling of being locked in is sufficient to awaken a desire to get out. This happens both with the sane and the insane; but it is certain that the mental condition of many patients in asylums renders them likely to be influenced in an especial manner by such a feeling. With many, however, the desire to escape dies away when it ceases to be suggested by forcing upon their attention the means of preventing it.

It is year by year becoming more clearly recognized that many advantages result from the working of the open-door system, and it has now been adopted to a greater or less extent in most of the Scotch asylums. In the Fife and Kinross Asylum, which contains about 330 inmates, only two wards—one for 20 female patients and one for 30 male patients—are kept locked; and in the Barony Asylum at Lenzie, which accommodates upwards of 500 patients, there is free communication between all the wards as well as free egress from each of them to the general grounds of the establishment.

*Benefits arising from the Removal of Restrictions.*—The beneficial effects arising from the removal of the various forms of restrictions on liberty are no doubt due, in great measure, to the increased attention that is given to the features of each patient's condition, for it is only after a careful study of the disposition and tendencies of a patient that a trustworthy opinion can be formed as to the amount of liberty that he is fit to enjoy. But it must also be recognized that the freedom from irksome discipline and restriction tends to remove one



of the sources of violent conduct in asylums, and consequently to diminish the number of accidents which results from it. Many patients have, under the freer conditions of their life, become calm and orderly in behavior, to whom the imprisonment in wards under lock and key, the confinement within high-walled airing-courts, and even the feeling of being under the constant supervision of attendants, were sources of irritation and excitement and causes of violent conduct.

There are other advantages which spring from this relinquishing of some of the physical means of detention. One of these, the importance of which will be readily appreciated, is the inducement it affords, not only to superintendents, but to every one concerned in the management of the patients, to acquire a full and correct knowledge of the mental condition and character of each patient. It not only increases the interest they have in ascertaining how far and in what ways each patient is fit to be trusted, but it strengthens in a very practical manner their motives for endeavoring to secure his contentment and orderly behavior. The judging of what is required for these purposes inevitably involves a good deal of intelligent observation of each patient, not only on admission, but during the whole time he is resident in the asylum. It becomes of practical importance to those in charge to note changes in his mental condition, whether in the direction of improvement or the reverse; and thus favorable or unfavorable symptoms are observed and considered, which in other circumstances might receive little attention. The general effect of the change of system is to raise the position of the attendants from being mere servants who carry out more or less efficiently the orders of the superintendent, to that of persons who have a direct interest in promoting the improvement of the patients, and who find it an advantage to themselves to carry out, to the best of their ability, whatever instructions they receive, with that end in view. A good attendant must always have had more or less of this character, it is true; but even good attendants are stimulated under the freer system to become still better.

*Difficulties met with in carrying out Improvements.*—In thus drawing attention to the improvements in asylum administration in Scotland, which have been more or less recently introduced, it is proper to observe that difficulties of considerable magnitude had to be overcome by the superintendents in the development of these improvements.

In relaxing restrictions upon the liberty of the insane, there is a certain amount of prejudice in the public mind to be met and overcome. There is a feeling of timidity in regard to persons laboring under insanity, which leads to their being regarded as without exception and in all circumstances unfit to be trusted with any degree of liberty. As a result of this, there is a tendency, when a patient in an asylum inflicts injury on others or on himself, to blame the superintendent for having permitted the patient to have such liberty of action as made the inflicting of the injury possible; and there is consequently a temptation, to a superintendent who wishes to avoid adverse public criticism, to adopt restrictive measures of the most complete character.

It was under the influence of such views that strait jackets, manacles and chains were used before the introduction of what is called the system of non-restraint. When such restraints were used, it was said that no blame could be attached to persons in charge of a patient for any violent deed which might be perpetrated, because it was held that every possible precaution had been taken to prevent it. The error that lurked beneath the statement was not perceived. It was not recognized that in taking precautions against one set of evils, other evils of a graver character were created. Even the evils which it was sought to avoid were not avoided. The first man from whom Pinel removed the manacles, which had been placed on his limbs to prevent him doing violence, had with those very manacles killed one of his keepers. The superintendent who really takes most precautions against violence is not the man who applies the most complete restrictions upon liberty, but he who weighs the general results of different modes of treatment, and selects that which proves in practice most successful in decreasing the number of violent acts. In carrying out this intention he must make use of restriction where he believes that safety cannot be obtained without it, but he will in every case avoid its use as far as he believes he may safely avoid it. The most merciless restrictions are insufficient entirely to prevent the occurrence of injuries by violence, and it is also true that such injuries occur where few restrictions exist. We cannot hope, in carrying out any system, to exclude the effect of mistakes in judgment and neglects of duty. But it will be evident, if the matter is carefully considered, that when such accidents occur, it is erroneous to attribute them to a blameworthy absence

of restrictions, unless we are prepared to say that if all patients in similar conditions were subjected to such restrictions the general result would be more satisfactory. It is too frequently assumed by the public that a restriction is only a precaution, and its injurious effects are lost sight of. It is advocated as a guard against evil, forgetful of the evil it engenders. And it requires courage as well as firmness to refuse to adopt it, unenlightened though the judgment may be of those who urge its necessity.

*Increased Comfort of Asylums.*—The last of the features in the recent progress of asylum management of which we desire at present to direct attention is the greater amount of comfort which is provided for the patients. This improvement has also been due to some extent to the requirements of the freer system of management, which made it of importance to the administrators of asylums to use every effort to secure the contentment of the patients, so that they might the more readily conform to what was required of them. It became necessary that all causes of discomfort should be as far as possible removed; and this practically implied an endeavor to supply them with everything likely to add to their real comfort. The necessity for this became naturally more apparent when the number of workers increased, and as a consequence the number of persons requiring rest after labor. Experience soon showed that comfortable lodging was necessary for those who gave willing work. Accordingly there has been a very considerable improvement in the character of the furniture of asylums. The seats have been made more comfortable, the beds have been made more roomy as well as more comfortable in other ways, and various other changes intended to increase the well-being of the inmates have been made.

It is satisfactory to record our conviction that all the changes just alluded to have tended not only to facilitate the administration of asylums, and to produce greater contentment among the inmates, but also to exert a real curative influence. The scenes of turbulence and excitement which used to be of frequent occurrence in asylums have become much less frequent, and in the asylums where the changes in question have been most fully carried out such scenes are comparatively rare. It does not admit of doubt that the occurrence of these fits of excitement had a deteriorating effect on the mental condition of the patients, and often retarded, if they

did not in some cases prevent, their recovery. It is not unusual now to pass through all the wards of some of the larger asylums without observing a single instance of disorderly behavior, and we believe this is properly attributed to such changes as have just been noticed. It is true that excitement may to some extent be kept in check by the use of calmative drugs; but we believe we are justified in saying that this practice is largely followed in no Scotch asylum, while it is scarcely adopted at all in those in which manifestations of excitement are least frequent, in which restrictions on liberty are most completely withdrawn, and in which industrial occupation has its greatest development."

The Twenty-fifth Annual Report of the same Board, printed in 1883, has also been received, which was dated February 24th, 1883, and was for the year 1882. The Right Honorable Lord Young resigned his seat in the Board, and the vacancy was filled by the appointment of Mr. John Cowan.

The Board of Commissioners in Lunacy for Scotland now consists of five members, viz: J. Don Wanchope, Chairman; John Guthrie Smith, Arthur Mitchell, John Cowan, John Sibbald.

The 25th Report furnishes much of value on subjects of public interest. We make a few extracts from the report of the Commissioners:

*Pauper Lunatics.*—Pauper Lunatics in Scotland constitute from 13 to 15 per cent. of the whole pauperism. The average proportion of pauper lunacy to pauperism in Scotland was, in 1882, 13.7 per cent. The proportion in the principal towns, 14.9 per cent.; in the large towns, 13.6 per cent., and in the small towns and rural districts, 13.2 per cent. The Commissioners, however, are of the opinion that "the statistics of pauper lunacy cannot be taken as an indication of the amount of insanity in the country, 1882."

The increase of the number of the insane in public establishments in Scotland, from 1858 to 1883, has been from 5,823 to 10,510, a net increase of about 80 per cent. The increase of population calculated from the middle of 1857 to



the middle of 1882, as estimated by the Registrar-General, is about 26 per cent.

The Commissioners show, however, that this increase is made up from the decrease of lunatics in private establishments, as well as to an increasing readiness on the part of the public, to place their insane in the public institutions.

After making allowance for the increased population of the country, the number of private lunatics in asylums has increased 9 per cent. since 1858, and the number of pauper lunatics in asylums, 89 per cent. for the same period.

While the proportion of pauper lunatics in asylums to the whole population has decreased in the year 1882 to 185 to every 100,000, from 188, which was the proportion in 1881, which the Commissioners state to be the first decrease of this character since the establishment of the Board. We make a few extracts from the report that must be of interest to our readers :

*At Bauff District Succursal Asylum at Woodpark*, shows complete success in the simple treatment there given to the female incurable insane.

*At Crichton Royal Institution*, about 30 patients are reported to sleep outside the asylum enclosures, and it is shown that this has an excellent effect, and illustrates the uselessness as regards many patients of the restraining appliances which many have so long considered necessary.

“There is a marked increase in the amount of liberty accorded to the patients, with a corresponding increase of their contentment and tranquility.”

*In the Glasgow District Asylum at Bothwell*, both sexes are allowed to mingle in the garden for exercise, without any inconvenience, as also to sit alternately at the dining table, and the experience of this asylum as well as that of *Haddington Asylum*, when it was first tried, shows that the plan works well, especially in promoting tranquility.

This mingling of the sexes alternately at the dining table has been found, after a trial of sixteen years at *Haddington*



*Asylum*, to produce good effects in many ways, and has never given rise to an unpleasant incident.

*In the Succursal at Balphatrick*, the inmates are simply under the supervision of an attendant, and are not restrained. They wash and cook for themselves, and are free to come in and go out as they choose, and their contentment is shown by the fact that none of them has ever tried to take advantage of the frequent opportunities of escaping.

*The Perth Royal Asylum* has pulled down its airing court walls on the male side, and are about to do so on the female side, the results having proved so satisfactory.

*In the Mavisbank Asylum* all the locks have been removed from the doors previously kept locked, and the doors furnished with ordinary handles.

*Saughtonhall Asylum* is reported by the Commissioners as in a most satisfactory condition.

The patients are provided for in a manner suitable to their condition, and their management continues to be characterized by the absence of all unnecessary restrictions upon liberty.

A study of this report and its valuable tables will be of great interest to the public, and it should be carefully considered by the Superintendents and Physicians of our American Institutions, for the lesson it teaches us to the advantages of dispensing with mechanical restraints and seclusions in their beneficent results upon the insane and the orderly and quiet management of asylums. It seems to us barely possible that even Dr. Gray, of our State Asylum at Utica, will feel willing to concede that, no matter how much experience one has in the care, management and treatment of the insane, he can learn something new daily, and that there is force, value and efficacy in the law of kindness, humanity and gentleness in the treatment of this class of unfortunates.

EDWIN W. STOUGHTON.

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MR. STOUGHTON was born in Springfield, Vermont, May 1, 1818, and lived there until the age of eighteen years, when he went to the city of New York, where he spent the remainder of his life.

He did not have the advantages in his youth of even the New England common schools, and the selection of the profession of the law made his task all the more arduous. Thorough, energetic, persistent, study and application, however brought him into the front rank of the legal profession, and it will not be questioned that Mr. Stoughton, in the full vigor of his professional life, in that department in which he was most distinguished, was one of the acknowledged leaders of the New York Bar.

He married Mary Fiske, March 3, 1855, who survives him, the union was, as we believe, childless.

He joined the Medico-Legal Society, in 1874, and while he made no contribution of articles or papers, he was always greatly interested in the science, and in the success of the Society.

Mr. Stoughton devoted himself in the early part of his professional career closely to its practice, and avoided political life, for which he had little taste; but in the fall of 1877 he yielded to the claims of the Administration and accepted the Russian Mission, remaining at St. Petersburg nearly two years, his health then failing, he was ordered by his physician to try the climate of Italy.

In the administration of the Russian Mission Mr. Stoughton gave great satisfaction to his Government, and was deservedly popular with the country.

Continued failing health forced him to retire from public life, when he resumed the practice of the law, in which he continued until his death, June 7, 1882.

Mr. Stoughton was a most conspicuous example of a self-made man. He had a fine physique, was of impressive and commanding appearance, of most agreeable manners, and was noted in the senior bar for the princely entertainments he gave to the judges or distinguished lawyers visiting New York.

No man at our bar had warmer and more devoted friends attracted to him by his genial disposition and lovely character.

The Medico-Legal Society, as well as the profession of the law, sustained a great loss in the death of Mr. Stoughton.

# CONSTITUTION AND BY-LAWS

OF

## THE MEDICO-LEGAL SOCIETY

OF THE CITY OF NEW YORK.

### CONSTITUTION.

#### ARTICLE I.

SECTION 1. This Association shall be known as the MEDICO-LEGAL SOCIETY.

#### ARTICLE II.

SEC. 1. There shall be three classes of members in this association, viz : Active, Corresponding and Honorary.

SEC. 2. Any person in good standing in either the medical, chemical, or legal professions in the United States, recommended by any member of either of said professions, respectively, after consideration of the proposal for membership by the executive committee, if recommended by the executive committee, shall be eligible to Active Membership.

SEC. 3. Any member of the medical, chemical, or legal professions residing outside the city of New York, and recommended by the executive committee, shall be eligible to Corresponding Membership.

SEC. 4. Physicians, chemists and lawyers, of recognized eminence in their respective professions, shall be eligible to Honorary Membership, if recommended by the executive committee. Any person so elected may be removed from such membership upon the recommendation of the executive committee. Such roll of honorary members shall not contain more than forty names, of persons so selected, and the number shall not include more than twenty from either of said professions of medicine, chemistry, or law.

SEC. 5. The society may remove any honorary member upon recommendation of the executive committee.

SEC. 6. Any person contributing one hundred dollars in cash, volumes or library furniture, accepted as such by the library committee, shall be thereby constituted a life member of the society. A like contribution of two hundred and fifty dollars shall constitute the donor a patron of the library. A like contribution of five hundred dollars shall constitute the donor one of the founders of the library.

## ARTICLE III.

## RIGHTS AND PRIVILEGES.

SEC. 1. Active members only whose dues shall have been paid for the year preceeding, shall be eligible to nomination or election to office, or entitled to vote. All other rights and privileges shall be equally enjoyed at the meetings of this association.

SEC. 2. Honorary and corresponding members may have the printed transactions of the association delivered to them upon payment of the sum of the annual dues of active members.

## ARTICLE IV.

## OFFICERS.

SEC. 1. The officers of this society shall be a President, two Vice-Presidents, styled first and second respectively, a Secretary, an Assistant Secretary, a Corresponding Secretary, a Treasurer, a Librarian, a Chemist, a Curator and Pathologist, and six Trustees.

## ARTICLE V.

## DUTIES AND PRIVILEGES OF OFFICERS.

SEC. 1. The President, or in his absence the vice-presidents in their order, or in their absence a chairman *pro tempore*, shall preside at all meetings, and such presiding officer shall perform all the duties connected with such office. The President shall be *ex-officio* member of all committees.

SEC. 2. The Secretary shall keep the minutes of the proceedings of the meetings of the society, and of the executive committee; and at the stated meetings of the society, he shall collect and give receipts for the fees and dues of members, in the absence of the treasurer; and he shall pay over the sums so collected to the treasurer, as soon thereafter as practicable, giving the name or names of those having so paid, therewith, to said treasurer, and take a receipt from the treasurer therefor; and, in addition thereto, he shall notify officers and members of committees of their election or appointment, and members-elect of their election; certify official acts, and procure and sign with the president certificates of membership, and deliver the same to new members; and perform such other duties as are usually connected with the office of secretary.

SEC. 3. The Assistant Secretary shall keep a list of the active members, issue the notices of the meetings, and in the absence of the secretary, perform his duties hereinbefore specified.

SEC. 4. The Corresponding Secretary shall conduct all the correspondence of the society, except that with active members.

SEC. 5. The Treasurer shall attend at all meetings to collect the fees and dues of members and give receipt therefor, personally, or by the aid of the secretary as hereinbefore specified; and he shall have charge of all moneys so collected, belonging to the society, and deposit the same in the name of this society, pay all expenses incurred by the society, by and with the consent of the executive committee; and he shall present an account of the moneys so collected and deposited, and expended, with the items of deposits,



or of expenditure, for the month preceding, at every meeting of the executive committee ; and he shall report the number of members in the society, up to the date of said report, with the number of those in arrears, with the respective sums due from each, at least once in three months, or oftener if so required by said executive committee ; and upon the last stated meeting of the society of the current year, he shall make his annual report to the society at such meeting ; and state the amount of money on hand at the commencement of said year ; the amount received for dues from members, and for initiation fees from members-elect, during said period, and the names of persons who had been so elected, who had failed to pay such fees and dues ; and the names of members who are then in arrears for dues, with the amount so due from them respectively, at the date of said report ; and he shall add thereto such recommendations in regard to improvements which can be made to facilitate the transaction of the business of his office as he may deem beneficial.

SEC. 6. The Librarian shall preserve, and hold accessible to members of the society, all its written and printed contributions contained in the library, and report the condition thereof at the stated meeting of the society, prior to the meeting for the general election.

SEC. 7. The Chemist shall have charge of all the business of the society relating to chemistry ; and he shall make his report upon the matters of such description which have been brought before the society during the year, with his recommendations in regard thereto.

SEC. 8. The Curator and Pathologist shall have charge of all pathological specimens offered to the society, and prepare the same for exhibition ; and upon the direction of the society or of the executive committee, he shall take proper means to preserve such specimens as possess Medico-Legal merits, for the benefit of the society, and make an annual report in regard thereto.

SEC. 9. The Trustees of the society shall have charge of the general business management and financial transactions which shall affect the welfare and standing of the society ; and they shall receive all property belonging to the society, and deliver the same to the proper officer of the society assigned to have charge of the same ; and said trustees shall exercise a general supervision over such property, for the preservation of the same, and make and retain an inventory thereof, for the use of the society ; and at the annual meeting said trustees shall make their annual report to the society to show the condition and value of such property, and the increase or decrease in such value, together with a description thereof, and as to the value thereof at the last annual report, and the value of all additions thereto, with a description thereof, since such prior annual report ; and said trustees shall make and execute all contracts and agreements in behalf of the society on instruction therefor by the society or by the executive committee, and perform all other proper duties usual to the office of trustees of similar societies.

SEC. 10. It shall be the duty of every officer or trustee of the society to attend at every meeting of the society and of the executive committee ; and

any officer or trustee who neglects to so attend, and who shall absent himself from two of such consecutive meetings, without sending a notice in writing of his intended absence, shall be deemed to have vacated his office thereby, and a notice of such vacancy shall be thereupon published at said second meeting : and the said office shall be filled by election at the next stated meeting, for the balance of the term of such officer, unless such officer is excused by the society or executive committee.

#### ARTICLE VI.

##### THE STANDING COMMITTEES.

SEC. 1. The officers and trustees of the society shall constitute an Executive Committee, which shall meet at least once in each month, prior to stated meetings of the society, to consider and transact such business as shall be transmitted to them by the society.

SEC. 2. The ex-presidents of the society, while they attend the meetings, and remain in good standing as active members of the society, shall be *ex-officio* members of the executive committee.

SEC. 3. The society may appoint or provide for the appointment of standing committees for its business and work, but not to conflict with any power or duty now therein vested in any committee, a majority of each committee shall constitute a quorum. The president of this society shall be *ex-officio* member of all committees.

#### ARTICLE VII.

##### PERMANENT COMMISSION.

SEC. 1. The organization of a Permanent Commission may be provided for and continued by the society.

#### ARTICLE VIII.

##### TRUSTEES.

SEC. 1. There shall be six Trustees chosen equally from the medical profession or chemists and the legal profession, two of whom shall be chosen annually for three years ; and in the case of a vacancy occurring, the same shall be filled for the unexpired term by an election from the profession to which said office belonged.

#### ARTICLE IX.

##### ELECTIONS.

SEC. 1. All elections shall be determined by a majority of the votes cast for the office to be filled thereby. All officers shall be selected equally as near as practicable from the medical profession or chemists and the legal profession.

SEC. 2. Elections of new members shall be decided by requiring at least two-thirds of the votes of members present at a stated meeting, voting by ballot, in favor of such election, unless the society order otherwise.

#### ARTICLE X.

##### AMENDMENTS—HOW MADE.

SEC. 1. Amendments may be made to this Constitution, after having been

proposed in writing, at least one month prior to the stated meeting, when the same shall be called before the society to be voted upon, after the same shall have been recommended by the executive committee. A majority vote of the members present shall be necessary for the adoption of such amendment.

## ARTICLE XI.

### BY-LAWS.

SEC. 1. By-laws for the regulation of the business of the society may be prepared and adopted by the society.

## BY-LAWS.

### ARTICLE I.

#### MEETINGS AND QUORUM.

SEC. 1. Stated meetings of the Society shall be held once in each month, except in July and August, on such day as may be designated by order of the society or executive committee; and special meetings at the time fixed by vote or by the executive committee. The president may call special meetings and he shall do so upon the request in writing of ten members.

SEC. 2. Stated meetings shall begin at eight o'clock, P. M., or as soon thereafter as a quorum is assembled; and special meetings at the hour designated in the call therefor.

SEC. 3. Ten active members shall constitute a quorum for business before the society.

SEC. 4. Five members of the executive committee shall constitute a quorum for business before such committee, and a majority of all other committees.

### ARTICLE II.

#### ADMISSION OF MEMBERS.

SEC. 1. The names of candidates shall first be referred to the executive committee. If reported upon favorably by said committee, they shall be balloted for at the time the report is made, or at some subsequent stated meeting. Two-thirds of the votes cast shall be necessary for an election to membership.

SEC. 2. Every active member-elect shall sign the Constitution, or a formal acceptance of membership, within three months after notice of his election; and in default thereof, said election shall be deemed void.

### ARTICLE III.

#### FINANCIAL AND ETHICAL REQUIREMENTS, AND VIOLATIONS THEREOF.

SEC. 1. Each active member shall pay an initiation fee of five dollars, which, with signing the Constitution, or acceptance of membership, shall entitle him to a certificate of membership of the society.

SEC. 2. There shall be an annual assessment of, and members will be required to pay four dollars, unless otherwise regulated by the society. But any member may commute such annual assessment by the payment of thirty-five dollars at one time, which shall exempt him from annual assessments for life, although he shall still be liable for his quota as a member for any extraordinary assessment which the society may think proper to order.

SEC. 3. Any active member who shall neglect to pay his dues or assessments for six months, shall be notified of the fact by the treasurer; and should he for three months after such notice neglect or refuse to pay, a penalty of ten per cent. shall be added to his said dues, and the same be collected therewith; and upon his continued refusal to so pay, his name shall be stricken from the roll of members of the society in one month thereafter.

SEC. 4. The ethical rules of the society shall be the same as those governing the medical and legal professions generally.

SEC. 5. Charges against members shall be made in writing, enclosed in a sealed envelope, and referred to the executive committee under such seal.

SEC. 6. In case of charges being so made, and the committee shall think that the charges are of so grave a nature as to require an answer thereto, copies of the same, under seal, shall be served upon the accused, and he shall be cited to appear before the said executive committee, and required to answer the said charges, at a meeting to be held not less than fifteen days from the time of serving such notice: and such member may be suspended from his rights as a member, pending such examination by said executive committee.

SEC. 7. After due examination, the said committee may acquit, admonish, or recommend the expulsion of such delinquent; or it may suspend him from a participation of the privileges of the society for a period of not exceeding three months thereupon.

SEC. 8. If the committee shall think the member ought to be expelled from the society, it shall be its duty to report the charges, and the evidence supporting the same, to the society, for action thereupon.

#### ARTICLE IV.

##### THE PUBLISHING COMMITTEE.

SEC. 1. All papers read before the society shall be referred to the Committee on Publication, consisting of the president, secretary and librarian, for consideration as to their merits for the advancement of Medico-Legal science, with power to publish the same, if they shall consider the same proper, for the information of the members of the society.

#### ARTICLE V.

##### TIME OF ELECTIONS—VACANCIES.

SEC. 1. The annual meeting for the election of officers and trustees shall be held in December in each year, and the election shall be made by ballot at the said December meeting, nominations having been made therefor at

the preceding stated meeting as follows : The Assistant Secretary shall, at least two weeks before the annual meeting, forward by mail to every member entitled to vote and not in arrears for dues, a membership list with a list of members and a ticket printed in blank for the various offices to be filled, also a blank envelope addressed to the Assistant Secretary.

Members entitled to vote shall fill up the blank ballot and return the same to the Assistant Secretary by mail or otherwise, under seal.

At the annual meeting the assistant secretary shall deliver the said envelopes to three tellers to be named by the president, who shall proceed at once, in the presence of the society, to count the votes of the said ballots and announce the result to the society. Each election list and envelope sent shall be separately numbered and a duplicate list kept by the Assistant Secretary.

In case no choice is made by the said vote, counted and announced by the tellers for any office, the same shall be filled by a vote by the society by ballot.

Any member shall be entitled to receive his election list and vote at any time before the polls are actually closed, on payment of all arrears of dues, if in good standing.

SEC. 2. Vacancies can be filled at any time by a special election, at any stated meeting, nominations having been made and announced in the same manner as required for annual elections.

SEC. 3. At the meeting next succeeding the annual meeting, no business shall be transacted except the reading of the minutes, the report of the executive committee, the election of proposed members, and the addresses of the retiring and newly elected presidents, unless the society shall otherwise order.

## ARTICLE VI.

### ORDER OF BUSINESS.

SEC. 1 At the meetings of the society the following shall be the order of business :

1. Calling the meeting to order.
2. Reading the minutes.
3. Payment of dues, fees and fines.
4. Reports of Executive Committee, and election of proposed members.
5. Reports of Special Committees.
6. Reports of Permanent Commission.
7. Reading the Paper of the evening.
8. New business.
9. Unfinished business.
10. Adjournment.

SEC. 2. In relation to the order in which the business shall be conducted in the society, the following shall be the order of precedence in which the same shall be presented by the president for consideration :

1. Motion to adjourn.
2. Motion to lay on the table.



3. Motion for the previous question.
4. Motion to postpone to a day certain.
5. Motion to send to a committee.
6. Motion to amend.
7. Motion to postpone indefinitely.
8. Motion for special business.
9. Motion concerning questions of order.
10. Motion to suspend the rules.

SEC. 3. The said respective motions shall be submitted for the consideration of the society, and each shall have precedence before all motions submitted prior thereto, in the numerical order hereinbefore specified; and the same shall be considered in their proper order, in the manner usual to deliberative societies.

#### ARTICLE VII.

##### SUSPENDING AND AMENDING BY-LAWS.

SEC. 1. Two-thirds of all the votes cast at a stated meeting of the society shall be sufficient to suspend the By-Laws.

SEC. 2. For their amendment the same rule and same vote shall be required as for amendments to the Constitution.

## THE PERMANENT COMMISSION.

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The society, at a meeting held February 16, 1876, unanimously adopted the following resolution, establishing the permanent Commission :

### RESOLUTION.

SEC. 1. There shall be established a Permanent Commission, consisting of the president and six members, to be elected by the society, upon the recommendation of the executive committee, chosen equally from the Medical and Legal professions. At the first election two members shall be chosen for three years, two for two years, and two for one year ; and thereafter two members annually for the term of three years.

SEC. 2. The Permanent Commission is charged with the duty of receiving all cases, questions, or demands for advice that may arise between the regular meetings of the society, and of acting upon them as speedily as possible.

SEC. 3. Five members shall constitute a quorum ; and a majority of those present shall decide upon what report or answer to make to cases, questions, or demands submitted.

SEC. 4. Cases, questions, or demands shall be addressed to the president of the society, who shall thereupon call the Commission together as soon as practicable.

SEC. 5. The Permanent Commission shall report as soon as practicable, directly to the person, officer, or authority making a demand or submitting a case or question, and also to the society at its next ensuing meeting.

SEC. 6. The report or opinion of the Commission shall not bind the society, but are subject, by a vote of the society, to be either rejected, modified or confirmed.

SEC. 7. The Commission shall elect their own chairman and secretary ; and the secretary shall keep a record of the proceedings of the Commission.

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## STANDING RESOLUTIONS.

### FINANCE COMMITTEE.

Medico-Legal Society, meeting of March 1, 1882.—The following resolutions were offered and adopted unanimously on recommendation of the president :

RESOLVED :—That a Finance Committee of five be named by the Chair as a standing committee, of which the president shall be chairman, who shall have charge of all the financial business of the society, order and audit all bills and accounts ; a majority of whom shall constitute a quorum.

RESOLVED :—That the treasurer is hereby directed to pay no bills, except they have been approved by a majority of the Finance Committee.

## MEDICO-LEGAL SOCIETY.

### OFFICERS AND COMMITTEES FOR 1883.

*President,*

CLARK BELL, Esq.

*1st Vice-President,*

PROF. R. OGDEN DOREMUS.

*2d Vice-President,*

HON. DELANO C. CALVIN.

*Secretary,*

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The Library Committee submit the following report to the close of the fiscal year, adopted by the Society, viz : December 30th, 1882.

We append a list of the names of the donors to the library for the year 1882, and the title of the contributions placed in the Library in a schedule hereto annexed.

The name of the donor is inscribed in all cases in each volume donated or purchased from the contribution made by the donor. These donations have been wholly made since February 1, 1882.

We also append a complete list of the names of all volumes contributed during the years 1873, 1874 and 1875 with a list of the donors.

We regret not being able to furnish any list of the volumes contributed or placed in the Library since 1875 to February 1, 1882, but hope to be able to do so during the ensuing year. A few volumes were donated and some few volumes purchased, but the committee have no reliable catalogue or data as to their names or number or who contributed them.

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The contributions by Mr. Clark Bell of money and volumes to the Library, of the value of more than \$250, entitles that gentleman to the distinction of a Life Member and of a Patron of the Society.

All of which is respectfully submitted.

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J. MARION SIMS, M.D.



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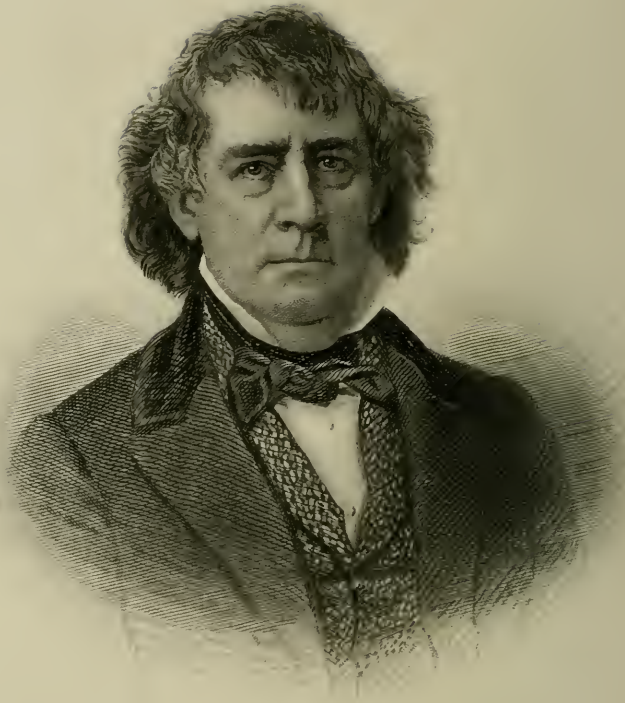
The death of James Marion Sims, M.D., on November 13th, 1883, in the city of New York, has created a vacancy in the ranks of the medical profession that can not, at least for the present, be filled. We know of no man on either side the Atlantic who can be said to fully supply his place.

As a surgeon, he has long been in the front rank which acknowledged on all sides in our country, has received recognition by the decoration of the French Government, as a Knight of the Legion of Honor. He also received personal honors and decorations from the Belgian, Italian, Spanish and Portuguese Governments. Born January 25th, 1813, in Lancaster, South Carolina, he graduated from the South Carolina College in 1832, and in 1835 took his degree at the Jefferson Medical College of Philadelphia, at once entered the practice of his profession, and commenced his remarkably successful and brilliant career. He was honorary member of many Medical and Scientific Societies in every country of the old world, and in most of the American States, and was President in 1875 of the American Medical Association. His gradually failing health compelled his residence in Nice or Rome, in winter in Paris or France, the remainder of the year, except for two months in autumn, in New York, making his name and fame as was his practice—international.

Dr. Fordyce Barker, the Honored President of the New York Academy, in announcing his death in a brilliant

enology at the November meeting, said: "No one can be compared with him in his own sphere in which he achieved such great distinction, except the late Sir James Y. Simpson;" Dr. T. Addis Emmett was designated to prepare a memoir to be read before that body in January next. The Editor of the New York Medical Journal, in closing a fine tribute to his genius and memory, says: "In Dr. Sims' death, the American profession has lost a giant, and the world at large a noble man. It needed not a legal enactment to perpetuate the name of Marion Sims; it will be handed down through all time to come." Though not a member of the Medico-Legal Society, his interest in Medical Jurisprudence, Neurological Science and Studies, was well known. The Medico-Legal Society and this JOURNAL honors itself in paying a tribute to the memory of the greatness, the splendid life and record of Marion Sims. Through the courtesy of Mrs. Frank Leslie, we give our readers a cut of this remarkably great man, and if the movement contemplated by her and others of erecting a statue to his memory in Central Park be carried forward, we shall gladly second it, as we feel that it will have the sympathy and cordial support of every fellow of the Medico-Legal Society, and of hosts of his friends in every profession and walk of life in our city, and to his admirers throughout the world.





J. Rameyn Beck

# A FATAL CASE OF POISONING BY ARSENIATE OF SODIUM.\*

By B. SILLIMAN, M.D.

Professor of Chemistry in the Medical Department of Yale College.

THE case now presented is of more than usual interest from the remarkable character of the symptoms, which so completely simulated those of an alkaloid resembling belladonna, as to lead both the medical attendant and the chemist, at first, to the opinion that no metallic poison could be the cause of death. But the chemical examination detected only arsenic acid, and this in combination with sodium, in such large quantity, that there was no room to doubt that this was the fatal agent.

Before giving the medical testimony in this case it may be well to review, briefly, the state of our knowledge respecting the toxical history of arsenic acid and its compounds.

Poisoning by arsenic acid is very rare. Compared to arsenious acid, the familiar white arsenic, the too frequent toxic agent, arsenic acid is extremely rare. Orfila says: "The action of arsenic acid on the animal economy differs from the effects of arsenious acid only in being more energetic." † And again, the arseniates act on the animal economy like the other arsenical preparations. ‡ The history of the case in hand materially modifies this statement.

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\* Read before the Medico-Legal Society of New York, October 3, 1883.

† *Médecine Légale*, iii, 125, 1828.

‡ *Ibid*, 126.



Dr. Taylor says: "I have not been able to find any instance of poisoning by arsenic acid in the human subject."\*

Dr. Christison does not mention arsenic acid as a poison, but cites two cases of accidental poisoning by arseniate of potassium, and also of the poisoning of seven horses by it at Paris.†

Messrs. Wharton and Stille‡ cite two instances of poisoning by arseniate of sodium in France (1852): "Two young men sent to a chemist for doses of tartarate of sodium, in place of which arseniate of sodium was sent by mistake and taken. In about five minutes they were attacked with violent cramps in the stomach, which speedily became very intense. One died, and the other lingered in a dangerous state."

Dr. Taylor mentions§ "an attempt at murder by the arseniate of potassium, which was the subject of a trial in France in 1844. This poisonous salt had been maliciously put into a bottle of wine. But a small portion was taken by the man, the bitter taste causing him to reject it. His wife also drank but a small quantity. Both suffered from severe colic, vomiting, great prostration of strength and stupor. A portion of the suspected wine was given to a dog, the animal suffered from violent vomiting and convulsions, and died in a few hours. Mr. Chavallier analyzed the wine and found about one drachm of arseniate of potassium in a pint"

DRAGENDORFF, p. 323, says: "Less important (but still noteworthy) than the poisoning by arsenious acid and its

\* A Treatise on Poisons, Am. edition, 1875, 343.

† Treatise on Poisons, Edinburgh, 1845, 284. Also *Annales de Hygiène Méd. Legale*, xii, 303.

‡ Medical Jurisprudence, 1855, 433.

§ Treatise on Poisons, loc. cit., 344.

combinations, are the salts and acid of arsenic acid employed in the preparation of analine dyes."

REESE, p. 251, says: "Arsenic acid is of no medico-legal interest."

WOODMAN and TIDY, p. 157, say: "There are no cases on record of poisoning with arsenic acid, in the free state in the human subject."

From these citations it will be observed that arsenic acid, as such, is not mentioned as having occasioned death, accidental or otherwise, but only its sodium and potassium salts.

Arsenic acid has been, until lately, of very rare occurrence, and seldom seen outside the chemist's laboratory. But since the introduction of anilin colors arsenic acid has come largely into use as an agent for the oxydation of anilin in the preparation of the superb reds, magenta, etc. These brilliant colors frequently retain notable quantities of arsenic acid, and are it is said, never quite arsenic free, while in calico printing this agent is also used as a mordant in the form of arseniate of aluminium, and as a compound with albumen. It is also employed in wall papers in which arsenious acid and arsenite of copper have long been used.

Owing to these new uses arsenic acid is now prepared on a great scale in the arts by boiling white arsenic in a capacious tank with nitric acid of density 1.35 conducting the copious nitrous fumes, which carry a portion of arsenic, into towers filled with coke drenched with nitric acid, and evaporating the syrupy liquor, with agitation to a density of 15°. A semi-fluid mass results filled with transparent crystals of the hydrate of arsenic acid having the formula  $\text{As H}_3 \text{O}_4 + \text{H}_2 \text{O}$ . This hydrate is very soluble in water, producing

cold. The solid acid deliquesces in air, melts at  $212^{\circ}$  F., losing its crystallization water and forms then a mass of fine needles= $\text{As H}^3\text{O}_4$ . It is intensely acid, and in its concentrated state attacks the skin, making blisters. Indeed it appears that those who are engaged in this manufacture and in the analin dye works suffer from cutaneous eruptions of a pustular kind, with œdema of the skin, colic, diarrhœa, vomiting, salivation, paralysis, and other symptoms showing an affection of the nervous system. The cutaneous eruptions are similar to those observed in workmen engaged in the manufacture of green arsenical wall papers.\*

Arsenic acid has a disgusting metallic taste. Sulphydic acid produces in dilute solutions hardly a feeble coloration of the yellow sulphid. Reinsch's copper test fails to act as it does so promptly in arsenious acid solutions. Marsh's test acts with the greatest promptness owing to the fact that the nascent hydrogen reduces the arsenic acid to its lower state of oxydation in the arsenious acid. Argentic nitrate, in the absence of chlorine compounds, detects arsenic acid by the characteristic brick red arseniate, which appears even in presence of chlorides after the latter are first thrown down. Of all wet tests for arsenic acid the most delicate is the ammonium molybdate, which reacts with this as it does with phosphoric acid.

A new source of danger from arsenic acid is recently brought to public notice by the announcement from our consular agents in France that owing to the extensive destruction of vineyards by the ravages of phylloxera, in the Bordeaux districts especially, the manufacture of spurious red wines has been greatly extended, the coloring matter of which

\* CHARNET in *Ann. d'Hygiène*, 1863, ii., 281. Cited by TAYLOR, 344.

is derived chiefly from anilin dyes, which, as already stated, are generally contaminated by arsenic employed as arsenic acid in the oxydation of anilin. The risk arising from the use of the anilin reds in coloring confectionery, liquors, vegetable syrups, vinegar, etc., has long been recognized.\*

The ravages of the Colorado beetle or potato-bug (*Doryphora 10-lineata*, of Say), early led in the United States to the very general use of Paris green, or Scheele's green (the arsenite of copper), as an agent for destroying these pests. This compound of arsenious acid is usually diluted in powdered gypsum, and strewn over the foliage of the growing plant, or it is diffused in water and applied with a sprinkler. Grave fears were entertained at first lest the free use of this arsenical compound should lead to mischievous results, and this anxiety was increased by the expression of such an opinion in discussions before scientific societies. This led to an investigation, on the part of the United States Department of Agriculture, by the chemist Dr. McMurtrie, the results of which showed the groundless nature of these fears. The details of these experiments are recorded in the Commissioner's Report for 1875, pp. 144-147. It is clearly demonstrated by this investigation that plants do not absorb and assimilate arsenic, although when Paris green and arsenite and arseniate of potassium were used in sufficient quantity in the soil, the vitality of the plants, growing in the poisonous soil, was steadily impaired, as its quantity was decimally increased until life was destroyed. Dr. McMurtrie thus summarizes his results: "We must conclude that plants have not the power to absorb and assimilate from the soil compounds of arsenic, and that although arsenical com-

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\* See Taylor on Poisons, 1875, pp. 344, 345.



pounds exert an injurious influence upon vegetation, yet this is without effect until the quantity present reaches, for Paris green, about 900 pounds per acre ; for arsenite of potassium, about 400 pounds per acre ; and for arseniate of potassium, about 150 pounds per acre." \*

" *Pest Poison.*"—Among the means proposed for the destruction of the Colorado beetle in 1876 was a preparation made in New York and sold under the name of "Pest Poison." It was to be dissolved in water, and the solution, very dilute, applied to the growing plant from a watering-pot. That it was an energetic poison was evident from the directions to use one pound or less in a barrel of water, but it does not appear that it was known or recognized as an arsenical compound, nor did the printed directions on the package contain any warning as to its dangerous character. As it came into my hands in November, 1876, it was a dry cake of a pink color, completely soluble in water with a decided alkaline reaction, and giving to sulphydric acid no sensible precipitate, and with Reinsch's copper test affording no arsenical coating. Hence its true nature, for the moment, eluded detection, especially as Dr. Huntington's clear account of the case appeared to favor the belief that this so-called Pest Poison was an alkaloid of the class of belladonna. So closely did the symptoms simulate those of a nervous poison as to mislead the judgment from the suspicion that we were dealing with a metallic irritant. This will appear more clearly when we read Dr. Samuel H. Huntington's statement, viz. :

" WEST HARTFORD, CONN., Nov. 16, 1876.

" PROF. SILLIMAN—DEAR SIR : It gives me pleasure to state,

\* Department of Agriculture. Rep. from 1875, Washington, 1876, p. 147.



in compliance with your request, the symptoms observed in the case of poisoning that I mentioned to you last Friday. The patient was a boy aged between three and four years. He gained access to the poison by being carried to the field in June, where his father and others were engaged in exterminating potato-bugs with it. Being left to amuse himself he began playing with a package of the poison, and finding nothing disagreeable in its taste, ate an unknown quantity.

"The accident was first discovered at about half-past five P. M., which must have been within a quarter of an hour of the time of swallowing the poison. The child was found playing with the box containing the poison, and in answer to his father's inquiries said that he had taken some of the pink stuff and felt sick. He first complained of thirst and nausea, and retched slightly as though attempting to vomit, but he did not vomit, although his parents administered a considerable quantity of ipecac. These were the only signs of gastric irritation that were noticed, and they rapidly subsided, giving place to symptoms of a nervous type.

"I first saw the child at six o'clock, within half or three-quarters of an hour of the poisoning. He was then in a state of profound stupor, from which it was impossible for a long time to arouse him. Great muscular debility was manifest. The pupils were widely dilated. The pulse was very rapid—130 per minute—and small. The respiration hurried—50 to 60 per minute—and shallow.

"Active emetics, followed by diluent drinks, caused a free evacuation of the contents of the stomach. This vomiting was repeated at intervals during the evening, but only when induced by swallowing large quantities of liquids.

"The matters vomited were merely the substances swallowed, and did not contain any blood or much mucus.

"After emptying the stomach stimulants were given, and attempts were made by various irritating movements of the body to arouse the patient from the almost comatose state in which he lay. These attempts so far succeeded that at eight

in the evening both a physician for whom I had sent from Hartford, on seeing the dangerous condition of the child, and myself, thought the danger of death was passed. The symptoms which were so alarming were nearly all greatly ameliorated; the profound sleep had nearly passed away. The child answered readily when spoken to, would call for its playthings, and showed great anger when either himself or his pets were annoyed. The pupils were contracted to about the normal size. The pulse was much slower and fuller. Greater muscular strength was shown. The respiration was still hurried, but not so rapid or shallow as at first. This apparent improvement continued until after midnight.

"At about one A. M. all the indications of danger returned with redoubled force. The patient became comatose; the pulse rose to 130-140 beats per minute, and was very small; the respiration became 70 to 80 per minute, and extremely shallow; the surface of the body became pallid; the extremities cold and the lips blue; the pupils were again dilated; tracheal râles were heard, and death took place at about two fifteen in the morning, eight-and-three-quarter hours after the symptoms of poisoning were first observed, and probably about nine hours after swallowing the mischievous agent.

"All attempts to arouse the patient from his last relapse were entirely futile.

"The manner of death seemed to be by paralysis of the respiratory nerves; during the whole attack, in fact, the disturbance of respiration was one of the most noticeable symptoms. There were no signs of gastric irritation except the thirst and nausea during the first few minutes. There were no indications of disturbance of the intestines. The bowels were evacuated artificially by administering injections, but the substances voided were perfectly normal.

*"During the whole time no complaint whatever was made of pain! No convulsions were noticed. \* \**

"I remain respectfully yours,

(Signed)

"SAM'L H. HUNTINGTON."

In a subsequent communication, in reply to my inquiry, Dr. Huntington adds: "I regret that I am unable to give any information regarding changes produced by the poison in the body of my patient.

"Though I fully appreciated the importance of an autopsy in the case, I was unable to persuade the parents of the child to allow one to be made.

"The symptoms, however, were all referable to the nervous system. No indications of gastro-intestinal irritations were seen."

It is needless to say that nearly all, probably all the symptoms of this interesting case of arsenic acid poisoning are such that any medical man, judging from the physical signs alone, must say that they were neurotic and probably referable to a powerful alkaloid. Atropia, belladonna, stramonium, etc., etc., all find some of their characteristics simulated here. Even the delirium of stramonium, etc., might be considered as manifest in the sudden anger of the child. In fact, I see nothing in the entire train of symptoms, so well described by Dr. Huntington, which should offer even a suggestion that arsenic was the toxic agent in this case. Its indications were conspicuous only by their absence, and the evidence from the physical signs was certainly sufficient to throw one off the line of suspecting a metallic poison.

I searched for alkaloids in vain. The quantitative analysis showed neither chlorine nor sulphuric acid. Sulphydric acid produced no evidence of a heavy metal. The spectroscope gave no evidence of potassium. The sodium flame was very strong. Marsh's test disclosed the presence of arsenic abundantly, and argentic nitrate showed that it was present only as *arsenic-acid*. This sample of "pest poison," so

called—the same which killed Dr. Huntington's patient—was, therefore, *sodium-arsenate*, colored pink, as a disguise, by analin red. I have since seen this preparation colored blue, and heavily charged with sodium chloride, but having still arsenic, as arsenic-acid, in combination with sodium and aluminum. The blue color was probably Prussian blue, with a trace of copper.

# SANITARY BUILDING LAWS

IN NEW YORK.\*

BY CHAS. F. WINGATE,

Sanitary Engineer.

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BEFORE entering upon the special subject of my paper, "Sanitary Laws Relating to Building in New York City," it will be pertinent to refer to Sanitary Legislation in general.

Sanitary Science is one of the newest of the sciences, though its chief principles are as old as Moses and Hypocrates. It is only thirty-five years since the first comprehensive Health Law was enacted in Great Britain, in 1848, and it was not until the outcry caused by the criminal blundering of the Crimean War, the death of Prince Albert, and like causes, that the British people were roused to take an active interest in questions affecting the public health, which have lately been described by Gladstone as being the first duty of the statesman.

For a long period, indeed, it was questioned whether the State had any right to interfere with individual action in order to effect Sanitary Reform.

Dr. Parkes, the eminent English sanitarian, remarks that many of the existing health laws passed by Parliament, have failed from this very difficulty of determining the proper limits of the action of the State. "The general fault of the

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\*Read before the Medico-Legal Society of New York, October 3, 1883.



acts," he says, "is their tentative and permissive character ; powers are not unfrequently given which there is no obligation to use, and which are therefore not used, and the wording of the act sometimes permits evasion."

Every little while this question of the abstract right of the State to protect the health of the community is raised in some new quarter, notably in regard to compulsory vaccination, the suppression of smoke and stench nuisances or the checking of food adulteration, so that it is important to settle this point at the outset. The whole problem is so clearly stated by Parkes that I will quote his conclusion in full :

" These are difficult questions, for though it is undoubted that the community as a body has a just power of setting aside the rights of individuals when necessary for the benefit of all its members, yet it is obvious that such power must be exercised with great discretion, lest the right to property and the incentive to labor and to self-improvement should be endangered. Still it cannot be doubted that our laws have been influenced by an unnecessary timidity, and have been too much hampered by opposing opinions. There are some writers who question whether the State has any right to interfere with individual action in this or in any other matter ; but to this it seems answer enough to say that a community is after all nothing but a collection of individuals whose united action is merely the individual action combined ; that such union is a necessity for the security of life and property, and that there can be no reason why this combined action should not also regulate the important conditions of public health, as well as the relations of property and the conduct of individuals. Practically, also, there are conditions affecting the health of its members with which the community at large alone can deal, and with which therefore it ought to deal. It can also be shown that this common action has already been productive of the greatest good in

several cases, and is absolutely necessary in order to counteract the ignorance, carelessness, selfishness, and avarice of men."

Sanitary legislation in England dates from a very early period. Edward II. decreed that a butcher who sold measled pork should be fined for the first offence, pilloried for the second, imprisoned and fined for the third, and expelled the town for the fourth. Richard II. took measures against the pollution of rivers. Henry VI. prohibited cattle-slaying within walled towns with three exceptions. Elizabeth enacted that only one family might dwell in a cottage. The plague, in the time of Charles II., lead to many health enactments. More than two centuries ago we read that Shakespeare's father was repeatedly fined by the authorities of Stratford-on-Avon for throwing garbage into the streets in front of his cottage.

The neglect of sanitary legislation in the past, according to Mr. Dorman B. Eaton, to whose essay on "Sanitary Legislation in England and New York," I am indebted for some of the succeeding references, may be ascribed to the ignorance of both of the medical profession and the public generally of the causes of disease and the benefits of preventive measures.

Blackstone's commentaries, first delivered as lectures in 1758, at Oxford, deal only in the most cursory way with the subject of public health. In the first volume, of 500 pages devoted mainly to setting forth what he calls the rights of persons, reference is made to "the preservation of a man's health from such practices as may prejudice and annoy it." A clew to the meaning of this clause may be found later on in the same chapter where three pages are devoted to

elucidating a man's right to having "*his limbs*" protected by law, and particularly "those members which may be useful to him in *fight*." Further on in his third volume, where treating of private wrongs, Blackstone states that a man should have the right to bring suit for damages against a vender of bad provisions or wine, against "a noisome trade which infects the air of the neighborhood," or against mal-practice on the part of an unskillful medical man. He adds in another chapter that any one appearing in a public place when infected with the plague or dwelling in an infected house can be prosecuted. This, it should be remembered, was at a time when the severest penalties were imposed for the most trifling offences against society. It was felony punishable by fourteen years' transportation to solemnize a marriage except in a church or chapel, or without publication of the bans, while persons who sold fireworks, who were idle, who were evesdroppers or common scolds could all be prosecuted. This shows that offences against the public health had not as yet received adequate attention.

Beyond caring for the sick in hospitals, &c., there was little if any regard shown by legislators for the public health. Only when medical knowledge advanced and the spirit of Christian beneficence drew attention to the unsanitary state of the masses, was any action taken to improve their condition.

One of the earliest agitators of public sanitation in this country, the late Dr. John H. Griscom, held that the Declaration of Independence laid down the first principle of sanitary law. All men possess certain "inalienable rights," the first of these, "the right to life," assures to each one individual freedom from contagious or other unsanitary influ-

ences. The necessity of drainage, of quarantine, of vaccination, and other similar regulations is a logical inference from this principle.

As Shylock says :

“ You take my house

When you do take the prop that doth sustain my house ;

You take my life

When you do take the means whereby I live.”

Herbert Spencer's axiom, that every one has a right to exercise all his activities so long as he does not prevent his neighbor from doing the same, leads it to be inferred that no one is privileged to cater to his own interests at the cost of his neighbor's health.

The duty of the State is undeniably to protect the many even at the expense of the few. A factory belching forth noisome vapors directly into the windows of neighboring dwellings is generally recognized to be a nuisance which it is the manifest duty of the authorities to remove. People only need to be educated to the point of viewing all forms of unsanitary building as equally oppressive and within the province of the legislation.

The well being of the State is as much dependent upon sanitary regulation, as the safety of life and property is dependent upon our judiciary. No one questions the right of the police to lay hands upon a criminal in the act of felony ! Why, then, should the greater culprit, say the “ skin ” builder or plumber, who assails the welfare of hundreds, be allowed to go unchecked ?

Sanitary house construction received but little attention until within a brief period. Vitruvius Palladio, Michael Angelo, Sir Christopher Wren, Inigo Jones and the other



great Masters, were absorbed in building temples, cathedrals, fortifications, triumphal arches, hospitals, monasteries, aqueducts and palaces, and hence gave little thought to domestic architecture. Yet such work as they did in this direction received the same conscientious care in plan and execution as everything else that these great men did.

The domestic life of earlier times was comparatively simple. The Orientals, Greeks, Romans, and other civilized nations lived mostly in the open air. Their houses were small, low and open to the sun and air. The absence of chimneys, fire places, stoves, windows, carpets, upholstery, gas and plumbing indicates how very different and limited were their domestic requirements.

During mediæval times the houses of the rich were fortresses and those of the poor were huts. Only within a few years have the interior arrangements of dwellings specially demanded the attention of the sanitarian.

The superstitious belief, which still largely prevails, that disease and death are "providential," had also to be removed before people could be led to attempt preventive measures. Lord Palmerston did much to bring about a change in this direction when he refused to appoint a day of fasting and prayer in time of cholera, but advised his petitioners to have recourse to cleanliness and to purify their surroundings. He also brought about the abolition of graveyards in cities, and the abatement of smoke nuisances; extended the factory acts, appointed the Crimean Sanitary Commission, and, in short, was an active sanitary administrator.

Under the theory probably that every man's house is his castle, the dwelling itself was for a long time left free of state control. The first legislation which affected this class of



buildings in Great Britain was the registering of common lodging-houses, and, in time, the limitation of their occupants, by regulating the amount of cubic space per head. In London this was fixed at 240 cubic feet, and in Dublin and other towns at 300 cubic feet. The Public Health Act of 1848 also forbade cellar habitations, and thus the terrible results of previous overcrowding were much lessened.

Under its English charter New York possessed almost no sanitary powers, and prior to the Revolution there seems to have been no sanitary legislation worth mentioning in the whole State. Even down to 1804, all legislation affecting the public health, which related mostly to Quarantine and the removal of nuisances, was limited in its application to the cities of New York, Hudson and Albany, the only ones of note at that time in the State.

In 1820, an elaborate act of 45 sections provided for a Board of Health for the three cities just named, and the navigable waters connecting them. It included a provision for Health Wardens to inspect dwellings and other buildings. After the cholera epidemic of 1832, local health boards were formed throughout the State. At about 1850, the Common Councils of New York and Brooklyn were each constituted Boards of Health, with the result of so mixing up politics with health administration, that in 1873 a change was made, and the present Board of Health was created. The powers of the present Board of Health, as regards buildings in New York, are thus set forth in the Sanitary Code :

The first provision, section 17, is sufficiently comprehensive : “ No person shall hereafter erect, or cause to be erected, or converted to a new purpose by alteration, any building or structure which, or any part of which, shall be inadequate or

defective in respect to *strength, ventilation, light, sewerage, or of any other usual, proper, or necessary provision or precaution* nor shall the builder, lessee, tenant, or occupant of any such, or of any other building or structure (within the right or ability of either to remedy or prevent the same), cause or allow any matter or thing to be done in or about any such building or structure dangerous or prejudicive to life or health."

Sections 18 and 19 repeat much of the above, and add that cellars or any apartment not at least two feet above the level of the sidewalk, are to be used for sleeping purposes, or as a place of residence, nor any apartment where the floor is damp, or which is impregnated with unwholesome odors. Over crowding is forbidden. "Adequate privies or water closets" must be provided and kept in a cleanly condition. Rooms shall be "adequately lighted and ventilated."

Later provisions (Sections 190-3), adopted 1877, require that in hotels, lodging and tenement houses proper traps shall be provided under all plumbing fixtures, and insist on the ventilation of privy vaults and the extension of soil pipes through and above the roof of every dwelling.

Section 201, adopted 1879, requires a permit for lodging-houses. In short, the powers of the health authorities, so far as the law is concerned, are absolute, and justify the saying that the Shah of Persia intended to establish a similar board in his dominions, in order to increase his powers over his subjects.

"Its control over nuisances," says Dr. Stephen Smith, "extends from the suppression of a crowing cock, which disturbs the morning slumbers of the sick, to the removal of the gigantic corporation of butchers, numbering two hundred and fifty establishments."

But many of the provisions of the Code are vague and too general. The language is not specific and leaves it to be disputed as to what is "adequate ventilation and light," and as to what are unwholesome odors and exhalations.

If strictly enforced to the letter, the Sanitary Code would revolutionize the metropolis, but it would be impracticable to do this, and also impolitic.

The Tenement House Act of 1867 was the first law passed directly relating to sanitary building in New York City. Its main provisions were :

1. The requiring in every interior sleeping room of two ventilating or transom windows, each having an area of three square feet, and communicating either with a hall or with a room opening on the external air.

2. A suitable ventilator on the roof over the hall stairway.

3. Fire escapes to be provided.

4. A water closet or privy for every twenty occupants, and connected with the street sewer when such exists.

5. Cellars not to be used as dwellings without a special permit.

6. Garbage to be removed, and tenements kept clean and white-washed twice a year.

7. Owners and agents names to be posted on the front of the building. *This has been a dead letter.*

These provisions enabled the health authorities to effect many reforms, but they were lacking in several particulars, afterward supplied in subsequent amendments.

In the autumn of 1876 general attention was drawn to the evils of the New York Tenement House system by several circumstances. Special investigations had been made by two leading charitable associations in the city into the condition

of this class of buildings, and important facts relative to their defects made public in reports and through the press. In December of the same year the Sanitary Engineer offered \$500 in premiums for the best designs for a model tenement house on an ordinary city lot, 25x100. In response to this competition, two hundred and six designs were sent in by architects from all over the country, and were exhibited at Clinton Hall. While the plans selected for approval came nearest to fulfilling the terms of the competition, the committee emphatically declared that in their view it was impossible to secure the requirements of physical and moral health within the narrow and arbitrary limits of the ordinary city lot. They, therefore, recommended further agitation to secure needed legislation regulating the number of occupants, the amount of open space, the provisions for light, ventilation and cleanliness on sound sanitary principles.

Simultaneously with this announcement a mass meeting was held at the Cooper Institute, at which a committee of nine was nominated to suggest measures for reforming the tenements.

Messrs. D. Willis James, W. Bayard Cutting, W. W. Astor, Cornelius Vanderbilt, R. T. Auchmuty, James Gallatin, Henry E. Pellew, F. D. Tappen and C. P. Daly, who composed this committee, immediately proceeded to take steps toward the formation of a joint stock corporation, for the erection of a block of model houses for workingmen; and also drafted a bill, with the aid of Judge Charles P. Daly and of Prof. Chandler, amending the existing 'Tenement House Act, which passed the Legislature in May. A very desirable clause, imposing a license on all tenement houses, was, unfortunately, stricken out, and a clause inserted instead appropriating \$10,000 to aid in enforcing the law.



The Tenement House Act of 1867 did not prevent a building covering the whole lot. This was remedied by requiring a clear, open space, of not less than ten feet, between the building and the rear line of the lot, and by authorizing the Board of Health to restrict the proportion of lot to be covered to sixty-five per centum, whenever they deemed it advisable, except in the case of corner lots.

The amended act requires that every sleeping room "shall have at least one window, with a movable sash, having an opening of not less than twelve square feet, admitting light and air directly from the public street or yard of the said house, unless sufficient light and ventilation shall be otherwise provided, in a manner and on a plan approved by the Board of Health." The Board are now approving plans where the inside rooms open upon shafts of the following dimensions: For houses not more than three stories in height, twelve square feet; not more than four stories, sixteen square feet; not more than five stories, twenty square feet.

Nothing was said about *overcrowding*. The Board are now authorized to require an owner to reduce the number of occupants of any tenement house that they consider to be overcrowded, until a minimum of six hundred cubic feet of air space is secured to each tenant.

The amended law also permits the Board of Health to require the presence of a responsible person, either the owner or a *janitor or housekeeper*, in every tenement house occupied by more than ten families.

For a number of years the Board of Health had been very much assisted in their work by the co-operation of the sanitary company of police. In 1876 they were deprived of their services, and the committee found that the department was



much crippled in its usefulness thereby. A provision was incorporated into the new law, which has secured to the Board the services of thirty policemen.

On March 12, 1883, a law was passed by the State Legislature prohibiting the making of cigars in tenement houses after October 1. The chief objections to the tenement house cigar factories are that they are a sanitary nuisance, detrimental to education and an illegitimate interference with a legitimate trade. The mortality among children is excessive, as it must be when children from six years of age upward spend most of their time stripping tobacco and bunch making. The school laws cannot be enforced, and the parents receive such low wages that they are compelled to make their children work. These places are also physically demoralizing, owing to bad ventilation, long hours of labor, the night and Sunday work, and eating food that is impregnated with tobacco. There are from 18,000 to 20,000 persons engaged in cigarmaking in the shops and factories in New York, and there are about 2,000 manufacturers. The tenement house manufacturers number 28, and they employ from 3,500 to 3,750 persons. The hours of labor in the factories are from 50 to 57 per week. In the tenement houses they vary from 70 to 100 hours per week, and the workers get from \$1 50 to \$2 per thousand less than is paid in the factories. Owing to their long hours they can make cigars faster than they are consumed, and that is why so many cigarmakers are out of work in this city. Several physicians have strongly condemned this trade. They say that bronchial catarrh, pneumonia, inflammation of the lungs and various nervous diseases are engendered in houses where such a trade is carried on.

Similar prohibition may be necessary in time with the

manufacture of clothing in tenement houses, excepting under special restrictions, owing to the risks of contagious disease being conveyed by the clothing to the public at large.

In the following winter the same public spirited gentlemen who had obtained the amendments to the tenement house act, secured the adoption of an enactment requiring that the plans of the plumbing and drainage of all new buildings must be submitted to the Board of Health for approval, and that the work itself shall be executed in conformity to their rules and subject to official inspection. It was also required that all plumbers should be registered at the Board of Health and licensed.

The value of this law is demonstrated almost daily, and the fact that its provisions are being adopted by other cities all over the country and are recommended for adoption abroad is the best proof of its merits. It prescribes first, that all plumbing in new buildings must be executed according to certain rules; these rules have been drawn up in consultation with engineers, plumbers and sanitarians of the highest standing, and hence represent the best thought and experience of our time in this line of work. They insist upon the use of good material and workmanship, having work accessible and as far as possible open to view, thorough ventilation and perfect trapping of fixtures, disconnection of all house drains from the sewer or cesspool, separation of the water and food supply from any source of pollution, abundant flushing, isolation of fixtures from living rooms, and finally suitable tests when the work is done to ensure that the plumbing is safe. As a result we can say that all the new houses plumbed since the law went into operation are free from defects common to the mass of other dwellings, and

which have so injuriously affected the health of their occupants.

The bitterest opponents of the law have ceased their complaints against it. The manner of its enforcement is a credit to the health authorities, while special praise is due to Messrs. Gallatin, Meyer, and Prof. Chandler, who secured the passage of the law.

During the first 8 months of 1882, dwellings to the value of  $34\frac{1}{2}$  million dollars were erected in the metropolis.

What is now needed is to extend the application of this law so as to include alterations in existing buildings as well as new ones, more especially in large jobs of work costing over \$100. The registration of plumbers should also be supplemented by a formal examination before a competent board of each applicant for registration, so that the public can be able to distinguish between competent and incompetent workmen. At present the registration is a mere form and all applicants stand on the same footing. If, however, they had to prove their qualifications by such an examination as I have suggested, the best plumbers would receive the credit they deserve and the ignoramuses would have to be content to wait longer for a certificate or receive one of a second grade.

Within a few years the attention of the public has been drawn to the very high buildings, mostly for offices or apartment houses, being constructed in all parts of the city, and their effect upon the health and safety of their inmates and persons living near by. This is a subject which calls for immediate attention, and a committee of leading citizens are now considering what restrictions should be placed on the height of such buildings. The chief objections to the

lofty buildings now coming into vogue is that they darken the streets and exclude sunlight from neighboring windows. The right to light and air has been established by innumerable lawsuits in England, and is not to be disputed. By general consent, the property adjoining a huge French flat is lessened one-fifth or more in value by the erection of the latter.

The adjacent streets and yards are made permanently damp, lower rooms become uninhabitable, neighboring chimneys and soil pipes have to be raised to be of any service, the wind sweeps through the narrow streets with gusty violence, causing discomfort and sore throats; lastly, tall buildings invite fire and threaten the safety of their inmates; they also disfigure the appearance of the city and may spoil a whole neighborhood, as they are rarely tastefully designed. An example of this is seen on Fifty-seventh Street, which contain some of the finest residences in the city, whose architectural appearance is wholly destroyed by several huge structures built in the plainest and cheapest manner, which inevitably seize the visitor's eye and mar all their exquisite surroundings.

It is quite time a stop was put to this practice, and that all buildings, or at least dwelling houses, should be limited in their height as in Paris, proportionate to the width of the street, avenue or open space in front.

Some one has remarked that the chief service of legislation is to protect the community from crime; later opinion shows that the health of the community is no less deserving of attention. The earliest sanitary legislation as pointed out by Mr. Dormon P. Eaton, had main regard not to the welfare of the whole people, but to the safety and comfort of



the rich and powerful. Unfortunately, the same unjust distinction is apparent. Property interests are supreme at Albany and everywhere else when legal redress is sought for existing evils. This philanthropic view of the health problem is sneered at as "sentimental" and "quixotic." Either the facts presented as to unsanitary conditions are denied or they are declared to be inevitable and irremediable. As in the case of slavery, it is said to be useless to try to improve the status of the masses, while more stress is laid on the possible injury to property interests which might result, than upon the physical benefits which would accrue to the whole community.

We search in vain for the American politician wise enough to appreciate the importance of these problems, except in rare cases, like that of Mr. Husted, who wrote to a physician interested in securing the New York State Board of Health, "I am deeply interested in the subject, and become daily more so as I read and reflect. I have read far enough to become profoundly amazed at my own and the general ignorance that prevails in regard to the laws of health and of sanitary science."

One might expect that demagogues would strive to make political capital out of these questions, but even these are absent. In Great Britain sanitary questions receive the closest attention of statesmen like Gladstone, Beaconsfield, the Duke of Argyll, Lord Shaftesbury, and a host of others. In the United States they are regarded as unimportant, and such legislation as is sought for is constantly stigmatized as being in the interest of the doctors, or of some one else seeking for a *syncure*.

During five years, the total expenditure for public sanitary



works in Great Britain amounted to the vast sum of 385 million dollars, which illustrates how far behind the people of the United States are in appreciating the importance of sanitary work.

Great Britain has also set the example of condemning certain sections of great cities, as London, Liverpool, Glasgow, Edinburgh, &c., as being unsanitary, and after compensating their owners for their loss the houses have been torn down and their sites used for new and better dwellings. This must also be done in New York ; and it is especially necessary to clear spaces in the more crowded sections for parks, the lungs of great cities.

Public opinion is not yet ripe for such action, but it will be educated to it in time. Perhaps some relief may also be afforded by the Brooklyn Bridge when rapid transit is extended to Brooklyn ; but not until the fare is reduced on the cars to a cent, or two cents at most, and the facilities for travel vastly increased.

# REPORT OF A TOXICOLOGICAL EXAMINATION FOR ARSENIC.\*

By JOHN J. REESE. M.D.

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ON August 11, 1883, I received from Dr. Neff, Coroner's physician, a glass jar, properly secured, containing certain viscera, removed by him a few days previously from the body of S. A., a man about fifty years of age, who had died after eight or nine hours' illness, from what was supposed by his attending physician to be *cholera morbus*, and for which disease he was, in fact, treated.

At the time of the autopsy, performed on the following day by the Coroner's physician, there was no suspicion of poisoning, and that officer reported finding only great congestion of the stomach and bowels. The brain, I believe, was not examined. The Coroner, however, from his medical knowledge and experience, was not disposed to attribute the death (considering the extremely violent symptoms accompanying it, along with the short duration of the case), to so rare a cause as ordinary *cholera morbus*. He, therefore, ordered a further toxicological investigation, which was intrusted to me, as the analyst for the city of Philadelphia. It may be here stated that subsequent inquiries have elicited certain vague sus-

\*Read before the Medico-Legal Society, November, 1883.

picious of foul play on the part of a member of the deceased's family, which, however, have not yet been verified.

The jar contained the *stomach*, secured at both extremities, a fragment of the *small intestine* (ilium), twelve inches long, about two ounces of the *liver*, together with a small piece of a *kidney*—all immersed in about ten ounces of alcohol, and all somewhat hardened by that liquid. There was no putrefactive odor perceptible; neither were the organs at all decomposed.

*Stomach*.—This organ was cut open along its lesser curvature. The contents consisted of five ounces of a thick, dark, reddish-brown, homogeneous fluid. The whole mucous membrane was deeply congested—more apparent in certain spots. There was one ulcer, about a quarter of an inch in diameter, situated near the greater curvature. A close inspection of the lining membrane revealed no evidence of the presence of crystals, nor any other abnormal deposit. The stomach was next cut up into small fragments, which, together with the contents, were placed in a clean porcelain evaporating dish, and about two ounces of pure hydrochloric acid and distilled water, each, were added; and the whole gently boiled for the space of one hour, frequently stirring. By this time the solid portions had become almost completely disintegrated. It was then allowed to cool, next strained through muslin, and the solid matter properly washed and pressed. The liquid strained measured ten fluid ounces. It had a clear, reddish-brown color.

One-fifth (two fluid ounces) of this liquid was subjected to *Reinsch's process*—that is, it was boiled, along with an additional quantity of pure hydrochloric acid, on pieces of bright copper foil, successively introduced into it. These became

almost immediately coated over with a dark steel-gray deposit, which was proved to be *metallic arsenic* by subsequently washing and drying several of them, and then rolling them up and introducing them into reduction-tubes, and applying the heat of a spirit lamp; a characteristic white ring was formed a short distance up the tube, which was proved to consist of *arsenious acid* by the microscopic appearance of the crystals (octahedra). I obtained sixty square inches of copper foil thoroughly coated with arsenic, from these two fluid ounces of liquid from the stomach.

I had ascertained by previous experiment that one grain of arsenious acid, treated by Reinsch's test, will afford a very decided metallic coating to three hundred square inches of copper surface. Consequently, I think I may assume, proximately, that the whole stomach contained, at the time of the examination, at least *one grain* of arsenic, it being at the same time remembered that this was merely the residuum, or complement of what had caused death.

The balance of the liquid from the stomach (eight fluid ounces) was treated for some time with sulphuretted hydrogen gas. A copious precipitate resulted, of a dirty yellowish-brown color, consisting of arsenic tersulphide, combined with organic matter and reduced sulphur. This precipitate was filtered and washed, then dissolved in aqua ammoniæ, and the solution evaporated to dryness. It was further purified by heating it with successive additions of pure nitric acid, together with nitrite and carbonate of potassium, and subsequently with a little pure sulphuric acid to drive off the nitric acid; and finally fused at a red heat. By this process the whole of the organic matter was destroyed, and the result was a mixture of *arsenate and sulphate of potassium*. This was

next dissolved in boiling water, and the solution was introduced into an active *Marsh's* apparatus, which yielded abundant evidence of the presence of arsenic, both by the numerous characteristic spots deposited on white porcelain (*vid.*, specimens C), and by the metallic mirrors on the horizontal glass tubes (D). Furthermore, the gas issuing from Marsh's apparatus was made to pass through a solution of nitrate of silver; and on filtering off the copious black precipitate of metallic silver, and adding aqua ammoniæ to the clear solution, the characteristic *yellow* precipitate of *arsenite of silver* was thrown down. Finally, under this head, on holding a short, wide glass tube over the ignited jet of gas, there was a deposit of white crystalline matter on its interior, proved to be *arsenious acid*, by dissolving it in distilled water, and testing the solution with ammonio-sulphate of copper and ammonio-nitrate of silver: the characteristic *green and yellow* precipitates were yielded.

*Intestine.*—One-half (6 inches) of the fragment of the small intestine was treated precisely like the stomach, above described, yielding six fluid ounces of a clear, yellowish-brown liquid. One-sixth part of this liquid, on being subjected to Reinsch's test, yielded a metallic deposit covering forty-two square inches of copper surface. This is equivalent to over 500 square inches for the twelve inches of intestine; or, (according to my estimate, of one grain of arsenic for 300 square inches of surface,) equivalent to 1.66 gr. This is certainly a large amount of the poison to be found in so limited a portion of the intestine; and assuming that it was equally diffused throughout the whole intestines, and estimating their total length to be thirty-five feet, we should have the very large quantity of 58.10 grains existing in the intestines at the time of death.



The balance of the liquid from the piece of intestine (amounting to five fluid ounces) was precipitated by sulphuretted hydrogen gas, and was further treated precisely as was the stomach; and similar results were obtained by Marsh's process, viz.: the *metallic spots* on white porcelain (G), and the *mirrors* on the horizontal tubes (H).

The two little fragments of *liver* and *kidney* were cut up into very small pieces and boiled for a considerable time with distilled water and pure hydrochloric acid. A trial test by Reinsch's process gave unmistakable evidence of *arsenic* by the metallic deposit on copper. Chlorate of potassium was next added in small successive quantities, until a clear, yellowish solution was obtained. This, when cooled and filtered, was introduced into a Marsh's apparatus, and yielded two characteristic metallic *mirrors* (E); the spots on the porcelain were not so satisfactory as those obtained in the former experiments with the stomach and intestine.

From the foregoing investigation, I feel justified in giving my opinion that death in this case was caused by arsenic poisoning.

# CONCUSSION OF THE SPINE IN RAILWAY INJURIES.\*

BY JOHN G. JOHNSON, M. D.,

Surgeon to the Union Ferry Co., Brooklyn—Prospect Park and Coney Island Railroad  
Co.—Brooklyn, Flatbush and Coney Island Railroad Co.—Brooklyn City  
Railroad Co.—New York and Brooklyn Bridge, etc., etc.

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IN 1866 an able and rising surgeon of England published a book of his triumphs in a new specialty he had worked up for himself, as a personal damage surgeon against railroad corporations, in a new disease that he had discovered, resulting from the mighty power of steam in railway concussions upon the nervous system of human beings. The ingenuity and plausibility with which his book was written spoke more for his skill as a partisan than did the contents appear as that of a searcher after truth. Case after case is quoted, with the enormous verdicts that he had won, though the most eminent men in the profession were arrayed against him. The particulars of the cases are summed up, and the points made by him in these cases, and the doubts and uncertainties that these parties would ever be able to discharge their duties to their families or society were fully insisted on ; while the strong probability that they might pass the remainder of their days as days of misery and nights as nights of agony, until the grave should take to itself these blighted lives, were portrayed in vividness of language that well might excite the

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\*Read before the Medico-Legal Society, December 6, 1883.

envy of counsel whose duty it was to press their claims upon the attention of a jury.

In the short limits of a paper like this, but few of the cases can be quoted from the first edition of Erichsen's *Railway Spine*. Before reading these cases, I would request that you see how few of the symptoms are of his own independent knowledge, but are the statements of the patient himself, who is a plaintiff in a civil suit for damages, the value of those statements depending on the truthfulness of the patient, which point Mr. Erichsen seems to have made no effort to verify, page 58, case 11 :

“Mr. C. W. E., about fifty years of age, naturally a stout, very healthy man, weighing nearly 17 stone, a widower, of very active habits, mentally and bodily, was in a railway collision on February 3, 1865. He was violently shaken to and fro, but *received no bruise or any sign whatever of external injury*. He was necessarily much alarmed at the time, but was able to proceed on his journey to London, a distance of seventy or eighty miles. On his arrival in town he felt shaken and confused, but went about some business, and did not lay up for a day or two afterwards. He was then obliged to seek medical advice and felt himself unable to attend to his business. He slowly got worse and more out of health ; was obliged to have change of air and scene, and gradually, but not uninterruptedly, continued to get worse, till I saw him, on the 20th of March, 1866, nearly fourteen months after the accident. During this long period he had been under the care of various medical men in different parts of the country, and had been most attentively and assiduously treated by Dr. Elkington, of Birmingham, and by several others, as Dr. Bell Fletcher, Dr. Gilchrist, Mr. Gamgre, Mr.

Martin, etc. He had been most anxious to resume his business, which was of an important official character, and had made many attempts to do so, but invariably found himself quite unfit for it and was most reluctantly constrained to relinquish it. When I saw him at this time he was in the following state: He has lost about twenty pounds in weight, is weak, unable to walk a quarter of a mile, or to attend to any business. His friends and family stated that he is in all respects an altered man. His digestion is impaired and his pulse is never below 96. He complains of loss of memory, so that he is often obliged to break off in the middle of a sentence, not being able to complete it or to recollect what he had commenced saying. His thoughts are confused, and he cannot concentrate his attention beyond a few minutes upon any one subject. If he attempts to read, he is obliged to lay aside the paper or book in a few minutes, as the letters become blurred and confused. If he tries to write, he often misspells the commonest words, but he has no difficulty about figures. He is troubled with horrible dreams and wakes up frightened and confused. His head is habitually hot and often flushed; he complains of a dull, confused sensation within it, and of loud voices, which are constant. The hearing of the right ear is very dull; he cannot hear the tick of an ordinary watch at a distance of six inches from it. The hearing of the left ear is normal; he can hear the tick at a distance of about twenty inches. Noises, especially of a loud, sudden and clattering character, distress him greatly. He cannot bear the noise of his own children at play. The vision of his left eye has been weak from childhood; that of the right, which has always been good, has become seriously impaired since the accident. He suffers from *muscae volitan-*

tes, and sees a fixed line or bar, vertical in direction, across the field of vision. He complains also of flashes, stars and colored rings. Light, even of ordinary day, is especially distressing to him. In fact, the eye is so irritable that he has an abhorrence of light. He habitually sits in a darkened room and cannot bear to look at artificial light, as of gas, candles, or of fire. This intolerance of light gives a peculiar frowning expression to his countenance. He knits and depresses his brows in order to shade his eyes. The senses of smell and taste seem to be somewhat perverted. He often thinks he smells foetid odors, which are not appreciable to others, and has lost his sense of taste in a great degree. He complains of a degree of numbness, and of pins and needles in the left arm and leg; also, of pains in the left leg and a feeling of tightness and constriction. All of these symptoms are worse on first rising in the morning. He walks with great difficulty, and seldom without the aid of a stick. Whilst going about a room he supports himself by taking hold of the articles of furniture that come in his way. He does not bring his feet together, straddles in his gait, draws the left leg slowly behind the right, moves it stiffly, and keeps the foot flat in walking, so that the heel catches the ground and the limb appears to drag. He has much difficulty in going up and down stairs; cannot do so without support. He can stand on the right leg, but if he attempts to do so on the left, it immediately bends and gives away under him, so that he would fall. The spine is tender on pressure and on percussion of these points, viz., at the lower cervical, the middle dorsal, and in lumbar regions. The pain in these situations is increased in moving the body in any direction, but especially the antero-posterior. There is a degree of unnatural



rigidity, of want of flexibility about the spine, so that he cannot bend the body. He cannot stoop without falling forward. On testing the irritability by galvanism, it was found to be very markedly less in the left than in the right leg. The genito urinary organs are not affected. The urine is acid, and the bladder neither atonic or unduly irritable. The opinion that I gave in the case was that the patient had suffered from concussion of the spine; that secondary inflammatory action of a chronic character had been set up in the meninges of the cord; that there was a partial paralysis of the left leg, probably dependent on structural disease of the cord itself; and the presence of cerebral symptoms indicated the existence of an irritability of the brain and its membranes. The patient brought an action for damages at the Gloucester Spring Assizes, April, 1866, against the company on whose line he had been injured, and, notwithstanding powerful adverse medical testimony, recovered £3,500 damages, or \$17,500."

I will not detain you with reading the details of the other cases, as a sameness of symptoms runs through them all, but in each he ends up with the verdicts obtained, varying in cases settled out of court for £2,500, or \$12,500, to those before a jury, when as high as £6,000, or \$30,000, was recovered. In one, a young lady, whose case he describes with his usual vividness of language to the jury, did not evidently come up to his ideas of what they should have done, for he finishes up his description of her case as follows:

"The lady brought an action for damages against the Railway Company at Guildhall, in the spring of 1866. But as she had sustained no pecuniary loss by the accident, she was only awarded the wretched compensation of £1,350, or \$6,750.

Mental sufferings, bodily pain and disability, and complete annihilation of the prospects of a life weigh lightly in the scales of justice, which are only made to kick the beam by the burden of the actual money loss entailed by the accident," is Mr. Erichsen's comment on this case.

As might be expected, so partisan a course as adopted by Mr. Erichsen would provoke the censure of the respectable medical journals, and we find a very able but moderate review of his work by the *British Medical Journal*, summed up as follows : We seriously object to such specializing railway injuries. "No doubt the public may readily be brought to believe that there is a specialty in the injuries produced by railway accidents, and, therefore, that one surgeon has more special knowledge of their surgery than other surgeons have. This, it is true, may lead to the benefit of the individual, but clearly is not to the benefit of the profession at large, or of the art of medicine and surgery. The belief on the part of the public in the existence of such *individual superiority, in the present case at least, would clearly be based upon a delusion*, and must necessarily tend to the unfair depreciation of general surgery and of surgeons in general."

Prof. Syme, the sturdy old Scotch Professor of Surgery, in the Edinburgh College of Surgeons, comes out bluntly and shows up Mr. Erichsen's falsifications in the *London Lancet* for 1867, page 2 :

"Since the passing of Lord Campbell's Act, a most unjust piece of legislation, as it has always seemed to me, which established the principle of regulating the amount of damages for personal injuries in accordance with the value of individuals to society and to their families. Claims of this kind have become very frequent under circumstances which

seriously call for consideration. For instance, at this time last year, a trial took place at Guild Hall, in the Court of Common Pleas, on the part of a commercial traveler, who prosecuted the Great Northern Railway Company for compensation on account of an injury alleged to have been sustained from a collision on their line. In this case, Sir William Ferguson, Mr. Erichsen and Dr. Russell Reynolds declared that there was organic disease in the spine, which in all probability would soon prove fatal; while, on the other hand, Mr. Borlase Childs, Mr. Pollock, of St. George's Hospital; Mr. Cock, of Guy's Hospital; Dr. Risdon Bennett, of St. Thomas' Hospital; Dr. Dunsmure, President of the Edinburgh College of Surgeons, and myself, no less confidently expressed the conviction that there was no organic disease whatever, and no reason why the claimant should not enjoy good health. The jury, instead of the £12,000 asked, gave £4,700 (\$23,500) damages, and before the end of many months the plaintiff, who had been rapidly recovering, *admitted he was quite well and continues to be so.*

“The truth is, that when juries find the medical evidence so conflicting—not being able to judge for themselves as to the merits of the case—they almost always decide in favor of the claimant; so there is great encouragement afforded to unfounded or exaggerated demands for redress. Indeed, any man who travels by railway may easily obtain a competence by stumbling on the platform, after the door of his carriage has been opened by a servant of the company, but before the train has ceased to move. He has merely to go to bed, call in a couple of sympathizing doctors, diligently peruse Mr. Erichsen's lately published work on railway injuries, go into court on crutches, and give a doleful account of the distress

experienced by his wife and children through his personal sufferings, which have resulted from the culpable negligence that allowed him to leave his seat prematurely.

“Who can doubt that in such circumstances the jury would give him large damages? This system ought certainly to be put down, and as one means of doing so, I beg to suggest the publication of cases exhibiting an entire discrepancy between the medical evidence, in order that regard for professional character may tend to cheat the reckless advocacy of one-sided views. The results of such cases in regard to the claimant’s speedy recovery of health would also be worthy of attention for the same purpose, and having given one of these, I may add a case of medical diversity of opinion that has just occurred here. On April 27 last, a commercial traveler drove out in the evening to my residence, in the neighborhood of Edinburgh, and informed me that he had been shaken the night before in a railway collision near Berwick-on-Tweed. He had walked immediately afterward—nearly a mile and a half—to see Dr. McLagan, of Berwick; and having been assured by him that there was no local injury or occasion for confinement, he had come on to Edinburgh. Finding that there was no local complaint, I desired him to call next morning at my house in Rutland street, and tell me if there was anything wrong. He accordingly did so; and then exhibiting the most perfect freedom in all his movements, without any sign of local injury, I concluded that if he felt any uneasiness, it must be more mental than bodily. Having expressed my opinion to that effect, I was rather surprised by being asked to recommend a law agent—and it is hardly necessary to say, declined to do so. On the same day, April 28, it appears that this person, having procured an

accomplished agent, applied to a surgeon of experience in *cases like his own*, who discovered that he had sustained a severe wrench of the spine and of the sacro iliac synchondrosis. The surgeon put him to bed, called in a trusty coadjutor, and visited his interesting patient at least once a day for months. On June 12, Dr. Dunsmure requested me to see the claimant, as he had now become. We found him lying upon a sofa, from which he rose and walked with flexibility of body. There was not the slightest swelling, discoloration or rigidity of the spine, and, on the contrary, every appearance of good health, as far as we could judge from our own observation. On July 29, the trial being about to take place, the claimant desired to be examined by a commissioner, and his ordinary attendant, having given a certificate on 'soul and conscience' that he was unable to appear in the witness box without serious injury to his health. I was requested along with Dr. Dunsmure, to report as to this for the information of the court. We found the claimant laying, or rather lolling, on two chairs in a garden, to and from which he walked in leaving and returning to his room, which was up a stair, on the drawing-room floor. He told us that he sat at his meals, and on the whole he had no appearance of bad health. We reported our opinion that he could safely appear in court, and the trial was ordered to proceed. But the claimant's legal advisers applied for delay.

"On December 14, Dr. Dunsmure and I were requested to see the claimant, as the trial would take place on the 24th. We found that he was not at home, but after a little while we saw him walking stoutly along the street from a public bathing establishment, which, it appeared, he had frequented for several months. He walked up the stairs of his residence



before me, and neither then nor afterward, when more particularly examined, showed any sign of spinal disease. At the trial, after the plaintiff had been examined seated in a chair, not being able to get into the witness-box, his counsel agreed to accept £1,000, instead of £3,000, which had been demanded. I deem it unnecessary to offer any observation on this case, but would suggest the following questions: 1. Could any one who had sustained a severe wrench of the sacre iliac synchondrosis immediately afterward walk a mile and a half, or on the two following days travel sixty miles by railway, drive about in cabs and make visits, without local complaint? 2. Could serious disease of the spine, resulting from external violence, exist for eight months without presenting some sign of its presence in the patient's gait, flexibility of trunk, or general appearance?"

Mr. Edwin Morris, surgeon to the Spalding Dispensary and Union Infirmary, in a work on "Shock," thus criticises Mr. Erichsen's cases (page 62):

"It is a remarkable fact that the complainants in these cases of alleged injury to the nervous system are always well up in the symptoms of spinal affections, and detail them in such a manner and use such terms to describe their feelings, that I am at once convinced that they have perused some surgical work on railway injuries. One popular complaint is that they have in a great measure lost the power of copulation—a very telling injury with an English jury, and one which invariably carries damages. In one case, this defect was put prominently forward, when, at the same time, I knew the patient had, since the accident and before compensation was awarded him, actually been brought before the magistrates, and was accused by his servant-maid of committing a crim-

inal assault upon her and of accomplishing his purpose. The case was dismissed in consequence of the groom coming forward and stating that he frequently had had connection with her during the time she was in the master's service."

Mr. Erichsen did not rest easy under these severe lashings. In a letter to the *British Medical Journal* he attempts to break the force of the criticism, by saying the title was put on the book by the publisher or printer without his knowledge. Mr. Charles Wilkins, Mr. Erichsen's lawyer, demanded of Mr. Syme, Mr. Dunsmure and others retractions of their allegations. They replied, proving their original statements, and published the correspondence in the *Lancet* and other medical journals. As might be expected, these severe criticisms concentrated public attention on Mr. Erichsen's work, and the success of his specialty was secured. He comes out with a new edition, containing more cases, all written up in a popular style, with symptoms that patients themselves can understand and use. He had made two parties and had got one—that was the public. His book run through large editions; was published on the Continent and in America; translated into German and other languages, and the Railway Spine took its place thenceforth in the public mind as one of the expected events of railway travel.

Mr. Erichsen endeavors to sustain his view of the concussion of the spinal cord from the well-known effects of concussion of the brain, but the analogy is not good, because the surroundings of each organ is entirely different. The brain is a large, soft mass, closely surrounded with its membranes, in direct contact in every part of its surface with the skull, abundantly supplied both on its surface and interior with blood vessels that may easily be ruptured, and it receives the

full force of a blow or a violent shaking of the skull ; while the spine is not one solid shaft of bone, but is composed of twenty-four separate vertebra. Between each of these is an elastic cushion, which, by their elasticity, allow of a violent oscillation, without transmitting its force to the cord. These vertebra are united together by nearly eighty joints ; each of these joints has its complement of ligaments. Beside these ligaments proper to the joints there are other ligaments which pass from vertebra to vertebra, among which are the ligamenta sub flava, particularly noted for its elasticity and strength. Then, again, the spinal cord does not lie in close contact with this bony cavity. The spinal canal is lined with a proper membrane of its own ; between this membrane and the membranes of the cord is a cushion of fat and loose areola tissue. Then comes the dura mater, which does not closely encircle the cord, for within is the arachnoid membrane, which folds on itself like a bag, and is filled with fluid ; and then comes the pia mater, encircling the cord. So that when the cord is violently shaken, it oscillates in this bag of waters ; and even if it could be impinged upon hard enough to bring it in contact with the bones of the canal, it would not strike them, for there is interposed between them this cushion of fat and areola tissue. Still further to protect it from harm, the inner membrane is anchored to the outer membrane of the cord along its whole length, from the foramen magnum to its terminal extremity, by little cross bars of ligament. These little cross bars of ligament thus anchor the cord in the centre of the bag of waters and hold it there. Finally, the dura mater itself is attached to the posterior common ligament, through the whole length of the spinal canal, thus still further anchoring the cord in its place of

safety in the centre of this bag of waters. And, finally, the dura mater is continued beyond the spinal cord in the shape of a slender string to the back of the coccyx, where it blends with the periosteum, thus holding the lower end of the cord in its place of safety. A mechanical provision for the protection of this most important organ from concussion is thus made, which only Infinite Wisdom could have conceived.

It is easy to see how absurd it is to reason that the same causes that produce concussion of the brain would produce concussion of the spinal cord. The pathological changes that Mr. Erichsen claims take place in the cord and its membranes are spinal anemia, molecular changes, and inflammation of the membranes of the cord, and of the cord itself, or meningio myelitis. We may dismiss the spinal anemia and the molecular changes, because Mr. Erichsen himself admits they are mere assumptions on his part, or, to use his own words, "A clinical expression, probably, more than a well proved pathological fact." Mr. Erichsen felt the importance of having post mortem verification of his theories, for he quoted a case from the practice of Mr. Gore, which was reported to the Pathological Society of London by Lockhart Clarke.

Mr. Gore's description, as published by Mr. Erichsen, is that "he was a man of fifty-two years of age at the time of his death—three and a half years before, he had been in a railway collision. Immediately after the collision the patient walked from the train to the station close at hand. He had received no external sign of injury, no contusions or wounds, but he complained of a pain in his back. Being most unwilling to give in, he made every effort to get about in his business, and did so for a short time after the accident, though with much distress. Numbness and a want of power in the

muscles of the lower limbs gradually, but steadily, increasing, he soon became disabled. His gait became unsteady, like that of a half intoxicated person. There was great sensitiveness to external impressions, so that a shock against a table or chair caused great distress. As the patient was not under Mr. Gore's care from the first, and he only saw the case for the first time about a year after the accident, and then at intervals up to the time of his death, he has not been able to inform me of the precise time when the paralytic symptoms appeared, but he says this was certainly within less than a year from the time of the occurrence of the accident. In the latter part of his illness, some weakness of the upper extremities became apparent, so if the patient was off his guard, a cup or a glass would slip from his fingers. He could barely walk with the aid of two sticks, and at last was confined to his bed. His voice became thick and his articulation imperfect. There was no paralysis of the sphincter of the bladder until about eighteen months before his death, when the urine became pale and alkaline with muco purulent deposits. In this case the symptoms were not so severe as usual; there was no very marked tenderness or rigidity of the spine, nor were there any convulsive movements;" page 179. On page 180, Mr. Erichsen says "this case is of remarkable interest and practical value, as affording evidence of the changes that take place in the cord under the influence of concussion of the spine from a railway accident. Evidences of chronic meningitis cerebral, as well as spinal; of chronic myelitis, with subsequent atrophy, and other organic changes depending on malnutrition of the affected portion of the cord." This case became one of marked interest, from being the only one claimed as post mortem from railway spinal concussion.



Mr. Lockhart Clarke's report of the case is as follows: "I found the membranes at some parts were thickened and adherent to the surface of the white columns. In the cord itself, one of the most striking changes consisted in the diminution of the antero posterior diameter, which, in many places, was not more than equal to half of the transverse. This was particularly the case in the upper portion of the cervical enlargement, where the cord was consequently much flattened from before behind. On making sections, I was surprised to find that of all the white columns the *posterior was exclusively the seat of disease*. These columns were darker, browner, denser and more opaque than the antero lateral, and when they were examined both transversely and longitudinally in their preparation under the microscope, this appearance was found to be due to a multitude of compound granular corpuscles and isolated granules, and to an exuberance of wavy fibrous tissue, disposed in a longitudinal direction. It was very evident that many of the nerve fibres had been replaced by this tissue, and that, at certain spots or tracts, which were more transparent than others, especially along the sides of the posterior median fissures, they had wholly disappeared. Corpora amylacea were also thickly interspersed through the same columns, particularly near the central line. The extremity of the posterior horns contained an abundance of isolated granules like those in the columns, and in some sections the transverse commissure was somewhat damaged by disintegration. The anterior cornua were decidedly smaller than natural and altered in shape, but no change in structure was observed. The striking resemblance between this case and cases of locomotor ataxy, as regards the limitation of the lesion of the white

substance of the cord to the posterior columns, although the nature of the lesion is somewhat different, excited my curiosity, whether the paralysis and difficulty of locomotion partook of the nature of ataxy."

In a letter to Mr. Gore, I inquired whether the patient's gait was remarkable for its unsteadiness, like that of a man intoxicated, or whether the movements were jerky or spasmodic. In reply, I received the following information :

"The semi-paralytic state which I attempted to describe was precisely that of unsteadiness, somewhat like that of partial intoxication, but, on the other hand, there was very little, if any, jerking or twitching."

That this case is not accepted by the profession is not a matter of surprise. Mr. A. Shaw, Consulting Surgeon to the Middlesex Hospital, thus comments on it in vol. 2, p. 377, *Holmes' Surgery* :

"The first remark which the reading of the above case suggests is concerning the disproportion that appears between the slight injury sustained by the patient and the magnitude of the results, occupying three and a half years in coming to an end. From progressive paraplegia and a morbid condition of the spinal cord identical with what have been described in the case, being known to originate independent of injury of any kind, the question forces itself upon us—was the shock in the railway case a cause or a coincidence? This doubt would not have been expressed if Mr. Gore had been in attendance on the gentleman at first, but according to the narrative, he did not see him till a year after the accident. But, granting for argument's sake that a shock analogous to concussion of the brain had really been received, the question may be asked, how would that assist in accounting for

the peculiar morbid change found in the cord on dissection? The concussion would be followed by inflammation; but that inflammation would be general. It would extend over the whole surface and enter into the deep structures of the cord, including every column equally. The organic change is not general, but partial. It is confined to the posterior columns. How, then, is that selection or limitation to be explained? Another objection presents itself: according to modern views of pathology, the morbid action concerned in producing granular degeneration of the tissues is distinct from inflammation. The process is seen in operation in fatty degeneration of the muscular substance of the heart, in the formation of the arcus senilis, in the production of atheroma in the arteries, etc. And in none of these cases is the degeneration preceded by inflammation. It may be argued, therefore, that the organic changes in the columns of the spinal cord, consisting of degeneration of the nerve fibres, depend on some cause not hitherto ascertained, different from inflammation, and that, accordingly, their connection with concussion of the cord is merely hypothetical. On the whole, it may be affirmed that what is most wanted for the better understanding of those cases commonly known under the title of concussion of the spine, is a greatly enlarged number of post mortem examinations. Hitherto our experience has been derived almost wholly from litigated cases, deformed by contradictory statements and opinions, and the verdicts of juries have stood in the place of post mortem reports."

With the claims of this case so thoroughly demolished by Mr. Shaw, and others of the most distinguished surgeons and neurologist of England, one would suppose that Mr. Erichsen would have endeavored to produce some undoubted post

mortem specimens, to show that inflammation of the membranes of the cord, or of inflammation of the cord itself, did result from these concussions of the spine. But, no ; in the latest edition of his work, published the past year, he quietly publishes this case again without comment, as though it was an accepted fact in the pathology of railway spine. What difference to him that the man's injuries were so slight, that he went about his business, *and did not see a doctor for a year afterwards* ? What difference that he died of a disease of the spinal cord, that is produced by *syphilis*, or by *sexual excesses*, by *exposure to cold* and by *rheumatism* ? The man had been in a railway collision and had afterwards died of disease of the spinal cord. The case had served him for his stock in trade with the juries, if not the courts, for nearly a generation, and he could not part with his old friend that had done him such yeoman's service.

Although it is now seventeen years since Mr. Erichsen introduced spinal concussion to the general public, with its slowly commencing and permanently continuing inflammation of the spinal cord and its membranes ; although he has appeared in the courts as a personal damage physician in these important cases more often, probably, than any other physician in all England ; although the public attention and that of the medical profession have been concentrated on these cases from the enormous verdicts that have been rendered—a single railway corporation having to pay \$300,000 in one year alone ; notwithstanding the ablest surgical and neurological talent in the land has been employed in these cases on the one side or the other ; notwithstanding Mr Erichsen has been at the head of the largest Accident Hospital in London during all these years—during all this time he



has also been Professor of Clinical Surgery, and now Emeritus Professor at the University, with facilities unequalled for the obtaining of post mortems—he has been unable to obtain a single post mortem specimen to sustain his theories.

Although death is the common lot of us all, and these concussed spines die, according to his own statement, in from three to four years, notwithstanding that his views have been shown as fallacious by the most distinguished neurologists of the age, by Erb in Germany, by Wilkes and Gowers, Le Gross, Clark, Ross, Hulings, Jackson and a host of the lesser lights. Though post mortem specimens of every kind of chronic spinal disease can be procured by all other surgeons or neurologists, is it not probable he would have produced them by the score from the thousands of cases of spinal concussion that have been before the courts had they existed anywhere except in his own imagination? That he does not despise the views and experiments of neurologists is shown by his culling from them whatever will sustain his side of the case or increase claims for damages. I quote from his latest edition, p. 17: "The importance of these inquiries, that is concussion of the spine, has latterly assumed a new aspect from the very interesting fact pointed out by Brown-Sequard that, in many animals, morbid states of various kinds may be hereditarily transmitted, as the results of injuries inflicted on the nervous system of one or the other of their parents." Thus, for instance, this distinguished physiologist has experimentally proved that epilepsy may appear by transmission in animals whose parents have been rendered epileptic by an injury of the spinal cord, as well as in the offspring of those in which that disease has been induced by section of the sciatic nerve.



Exophthalmia, malformations of the ears and toes, partial closure of the eyelids, hæmatoma, and dry gangrene of the ears have all been thus produced in animals, and although *there is no proof, as yet, that analogous effects can be developed in man by hereditary from parents who have suffered from injury of the nervous system, yet we may fairly assume that such is the case.* And now that attention has been called to this most important subject we may expect to find similar instances in the human subject. Could partizanship go further? Mr. Erichsen with his lifetime of experience among these concussed spines, visiting a wrench of the sacro iliac synchondrosis at least once a day for months, intimately acquainted as he must have been with their families, appearing as their champion in courts, admits with all his experience among them *he never has seen or heard of a case of concussion of spine transmitting nervous defects*, attempting to reason where the surgeons knife had wounded the spinal cord or sciatic nerve of a guinea pig, and therefore diseased offspring sprang from a diseased parent, therefore a concussed spine, of which he has never been able to show a post mortem specimen, would transmit diseased nervous systems. If Mr. Erichsen's sworn statement is true that these parties cannot copulate, would it be amiss for him to show how they would have children? This is the work we see so often admitted in court as an authority in these diseases, and page after page allowed to be read to juries in these damage cases. The large majority of these cases that are brought into court are those where there is an absence of very evident injury, coupled with a history of anomalous symptoms of impaired nerve function, while fractures, bruises and wounds present comparatively little difficulty of adjustment out of court.

Well, if these are not cases of concussion of the spinal cord what are they? Sprains of the muscle and ligaments of the back and joints of the vertebræ. Shock to the whole system. In some few cases hemorrhage in the vertebral canal. Liti-gation symptoms. When a train in rapid motion is suddenly stopped, the passenger's momentum sends him violently forward and then he rebounds, he may be violently jerked to and fro if the carriages bound and rebound and jump up and fall again. Every portion of his body suffers from this rude shaking. It cannot be forgotten that the viscera of the thorax and abdomen partake each, more or less, of the character of "floating;" that they are suspended at their roots by ligaments or their equivalents, and within the folds of the serous membranes which form these connections, not only blood vessels but also nerves, particularly of the great sym-pathetic system, are enclosed. Thus all the parts of the arterial, nervous, sympathetic and digestive systems become, more or less, disturbed, and an anomalous train of symptoms follow, accordingly, as one or the other of these systems have suffered. Add to this the intense fright which the utter help-lessness of their situation brings, and the nerve exhaustion from this shock, and you can account for the symptoms presented.

Sprains of the ligaments of the vertebræ, rupture of por-tions of the tendons or muscles of the back are, without exception, the most frequent cause of the phenomena assumed to be those following concussion of the spinal cord. They give rise to much local pain, to a rigidity of the spine, a difficulty in rising from the seat, a stiffness in walking, and contribute readily to any disposition on the patient's part to make much of his injury. It is a mistake to suppose men-

ingitis or myelitis is accompanied by pain on pressure. The examination of spinal diseases in any hospital will show that the spinal cord is surrounded by a bony wall thicker than the bones of the skull, and you might as well press on the head to see if the brain is diseased. Flushing of the face and head, cold feet and hands are from disturbance of the vaso-motor system, the sequence of the shock. Complaints of being easily startled, depression, intolerance of noise or light, irritability of temper, are simply loss of nerve power, of a hysterical state. Easily induced fatigue, the lines all running together when attempting to read come under that head. The sight will return to its normal state if there has been no previous asthenopia. Loss of memory is not real. It is simply an incapacity for sustained thought, and like the inability to apply himself to his business, are simply loss of nerve power, and with the return of the muscular strength the nerve power will return. English surgeons call these litigation symptoms. Why? Because they are never found in the employés of the railways who have been in the same accidents. If they were, the result of the injury to the nervous system, or the brain, or spinal cord, or its membranes, then the conductors, engineers, firemen, brakemen, etc., would suffer in the same way, but they do not. Why? Because one has an object to get well, the other has not. It is a principle of law that those who go into a business must take the risk of the business. The employés can have no claim for damages, their support and that of their families depends on their labor. If they don't attend to the business another man will, and their situation will be lost. It is incredible to see how quickly an employé will be to his work and well when a passenger will spread it out to months and years.

It is scarcely reasonable to look for much improvement in a patient who is placed in exactly the worst condition for recovery. The passenger is constantly visited by one or more medical men who are continually directing his attention to these symptoms, awaiting in trepidation the ordeal of an examination in a court of justice when his claim is likely to be stoutly contested; afraid to make any effort towards recovery because it will diminish his claim. The mind without any other object to dwell upon turns and returns to all these little ills and becomes intensely sensitive about this suit, and this emotional excitement will retard the recovery till the suit is settled. After the settlement the recovery, as shown by Professor Syme and others, often occurs with indecent haste.

One point more: It seems that the decisions of the General Term of the Supreme Court, in refusing the defendant the right of examination by his physicians into the physical condition of the plaintiff is an injustice, and lays the ground for fraud, which cannot be punished. An unscrupulous physician has little to fear, for the defendant cannot prove a negative. The reason assigned by the court does not seem sufficient; that reason is that nervous females might, through fear of examination by adverse physicians, forego the pressing of a suit, and thereby be debarred of justice. Every corporation knows how severely anything done by their representative is commented on, and if their physician should conduct himself in any way obnoxious, the jury would make them pay fearfully for it.

The English rule seems more equitable. It gives the defendant the right to examine through his physicians, but the report of the defendant's physician must be public to both sides.

See the ruling of the Lord Chief-Justice in the case of *Farquhar vs. Great Northern Railway Company*, Solicitors' Journal Annual Reports, January 30, 1875, page 236.

His Lordship said that it was most desirable that a medical man on the part of the company should have an opportunity of seeing the patient, in order to ascertain the nature and extent of the injury; but then, on the other hand, the patient should have the corresponding advantage of knowing what reports had been made to the company concerning him. The object of the defendants in an action for compensation for alleged injury in sending their medical man to examine the plaintiff, is for their own advantage—not his. It is to determine whether he really has been injured, as alleged. If so, to what extent, and when he is likely to recover? It is but fair, therefore, to the plaintiff, that if he submits to the intrusion of a stranger and suffers himself to be personally and minutely examined by one whom he is apt to regard in the light of a hostile witness, he should be made acquainted with the opinion that has been formed of his case. The plaintiff's course will be very much guided by a knowledge of such opinion. If the patient has been really and seriously injured, it is only just and right that he should be made acquainted with the candid opinion of the medical man sent to examine him. If he over-estimates his sufferings and finds that the defendants' surgeon suspects him, he will be more likely to take a less serious view of his case and to accept reasonable compensation. Whereas, if he be wilfully misrepresenting his condition, he will be little disposed to submit himself to the searching cross-examination of counsel, if he knew that the surgeon employed on behalf of the railway company had detected his fraud "



But Germany has the fairest course. The physician there testifies as to the fact. Any expert testimony is given by a physician appointed by the court, who examines the case when he pleases, and as often as he pleases, and after studying up the case, makes his report in writing to the court. If either side feels aggrieved, then they can submit further interrogatories to him. He reinvestigates the case from the standpoint furnished him, and then makes a supplementary report. Finally, when the case comes to trial, he is placed on the stand, and can be examined by both parties as to the soundness of his opinions. Here we have a judicial mind—a physician who has no interest in the result—whose whole future employment depends on the honesty and intelligence with which he discharges his duty to the court.

Contrast this with the scenes so often witnessed in the New York and Brooklyn Courts! Where a personal damage lawyer, who has the case on shares, proves his case by a personal damage doctor, whose fees are contingent on the jury's verdict, fortified with Erichsen's concussion of the spine, protected by a court who refuses the defendant a chance to examine by skilled surgeons the plaintiff in such a suit, and then tell me if it is any wonder that more than half of all your calendars in both City and Supreme Courts are made up of such personal damage cases?

The importance of this question is shown in the fact that in five years the English railways paid £2,200,000 as damages awarded by juries in these cases of concussion of the spine, or a yearly average of two million two hundred thousand dollars. The *Dublin Quarterly Journal of Medical Sciences*, vol. 44, p. 380, gives this fact.

The Revere disaster alone cost the Eastern Railroad of

New England half a million of dollars, and the Old Colony Railroad paid three hundred and ninety-five thousand dollars for damages in a single accident. Verdicts in England, more frightful in amounts, have been awarded than in this country. The *British Medical Times and Gazette* reports the case of Dr. Phillips, who was awarded eighty thousand dollars; and Lord Coleridge, who held court, was not dissatisfied with the results.

If these were all really cases of injury to the spinal cord or its membranes—permanent in their character—no one could complain, for no money could compensate for the suffering and blighted life; but they are not. Dr. R. M. Hodges, in the *Boston Medical and Surgical Journal*, for 1881, makes a very able analysis of the injuries of the Wollaston and Revere accidents. The whole of the evidence and the information in possession of the corporations was placed in his hands by Dr. Lovejoy, the surgeon of the road. The Wollaston accident was settled by arbitration, three medical men being selected, who were not connected with either side. They reported that in fifty-three cases there was evidence enough to satisfy an ordinary jury that the claimants were suffering from what was called concussion of the spine; and the company settled with each one at the amount awarded by the commission. Two years afterward, Dr. Hodges found that of the fifty-three, all but three had entirely recovered.

He states that “in twenty-one cases where the so-called symptoms of concussion of the spinal cord were alleged to be present, which *have been under my personal care*, ten are believed to have been deceptions; and in six, the diagnosis, as regards deception, was doubtful.” Of twenty-six similar cases observed by J. Rigler (an eminent German authority),

seven were found simulated ; and in thirteen, the diagnosis in regard to fraud was doubtful. Of these forty-nine cases, seventeen are shown by their own physicians to be absolutely fraudulent, while the probability is that three-fourths of the whole were, according to the opinion of these physicians who had charge of their cases. As to the claim of destruction of their virile powers, Hodges gives several cases showing how fraudulent was this claim. In one of the cases, this claim of impotency was strenuously insisted on before a jury, as the results of the spinal concussion, and a verdict of \$18,000 was given. Not long after the satisfaction of the judgment the plaintiff was convicted of bastardy (p. 364, *N. E. Medical and Surgical Journal*, 1881). In another case, an award of ten thousand dollars was made, this alleged sexual disability being the chief ground for damages from the spinal concussion. The claimant was married a year afterward, and his wife in due time gave birth to a child, presumably legitimate.

Fifteen months after the Wollaston accident, a similar event occurred in the family of one of the injured on that occasion who claimed to have been made wholly impotent, and was paid \$5,000 by the commission's award.

Curling, an eminent authority on the genital organs, shows that when impotence has really followed injury of the brain or spinal cord, it is evidenced by atrophy, or wasting of the testicles. They become small, soft and flabby.

Dr. Hodges also, in the same paper, says : "In 1872 the Metropolitan Railroad was mulcted \$10,000 by a man, the detailed account of whose symptoms satisfied a jury that—as a result of concussion of the spinal cord—he was utterly enfeebled in body and wholly unable to earn his living, or to perform the ordinary acts of life with comfort. It required

the united strength of three policemen to take him to the station-house when, at the close of the trial, he celebrated his victory by getting too uproariously drunk. He has since followed the active and laborious calling of a junk dealer."

Dr. Hodges says: In the Wollaston accident there were one thousand two hundred persons on the train at the time of the derailment. Thirteen persons were killed outright, and more than two hundred and fifty injured, of whom six afterward died. It is impossible to determine how many cases of claims preferred were absolutely fraudulent or grossly exaggerated in their character. It is a notorious fact that this was true of a large number. Persons claimed compensation for injuries who were not even on the train to which the accident occurred. Attempts were made to palm off old fractures—old hernia, hydroceles, varicoceles and varicose veins of long standing as immediate results of the catastrophe. And, in several instances, boards of arbitration met, counsel were present, claimants examined, and no award made, simply because nothing could be found on which to base any just foundation for damages. The striking feature of the accident was the number of persons who claimed to have spit blood or to have passed it by the bowels, in whom no distinct signs of injury, such as external marks of contusion, fractured ribs, etc., could be found.

At the Medical Society of London, March 7, 1881, Mr. Wordsworth, an eminent oculist, made a report of the claimed defects of vision in twelve cases in which he had been requested to appear as a witness for plaintiffs, and in all of which considerable pecuniary compensation was received, on account of the unfavorable prognosis that was given. In none of them could he find any signs of injury on



examination, except a slight hyperaemia of the fundus oculi; and, so far as he was able to trace the cases, they all recovered on the settlement and resumed their usual avocations. He commented on the fact that medical men were seldom consulted in these cases, except with a view of obtaining compensation. He stated that in a long experience in hospital and private practice, he had never seen any of these cases, simply as patient, either before or after the settlement of their claim for compensation. These circumstances threw a doubt on their bona fides and deprived this claim of its supposed importance.

Dr. Abbott, whose work on the ophthalmoscope is the standard authority in the London *Lancet*, 1881, page 462, says: "I have never seen true optic neuritis with active proliferation as the sequel of spinal disease."

Speaking of locomotor ataxia, the disease of the cord, of which Mr. Gores' patient died, which Mr. Erichsen claimed as a case of spinal concussion, though he did not come under any physician's care for a year afterward, Mr. Gowers, one of the leading neurologists of England, in an article in the *Medical Times and Gazette*, October 16, 1880, shows that 75 per cent. of all the cases of locomotor ataxia that have come under his observation were the results of syphilis.

Dr. Hodges says: The claims of spinal concussion were chiefly based on tenderness of the back—stiffness of the back and difficulty of urination. When the claims were honest, Dr. Hodges found that they resulted from sprains of the ligaments and muscular aponeuroses; and in some cases from a periostitis of the spinous processes. And in some cases exostoses, or bony enlargement, at the subsequent examinations, showed the truth of his original diagnosis.

Medical literature abounds with similar material, showing



the falsity of these claims of permanent injury, or of any injury whatever of the spinal cord, or its membranes, as claimed in these cases.

Where there is really any injury of the cord or its membranes, the objective symptoms are the most prominent. There are two classes of symptoms by which surgeons form their opinions—the subjective and the objective. The subjective, that is the patient's statements ; and the objective, what the case reveals.

If you can thrust needles into the legs, burn the patient's legs with a lighted match, or apply the electric whip, and there is no evidence of pain, you need no statement of the patient that he has no sensation in the limbs. Again, if you find the tendon reflex perfect, you know that its path of conduction is not destroyed ; and so all through the various tests that are known to neurologists. The symptoms of disease of the cord or membranes is the same, whether it be a medical disease or traumatic. Where we have merely *the patient's statements, without objective proof, the case is to be regarded with suspicion*. Where there arises either a meningitis or a myelitis, contrary to Erichsen's teaching, the disease arises soon after the injury, and give objective symptoms that are paramount.

Dr. Hodges closes his paper with a remark which every one who has had much to do with railroad claimants will endorse. He says:

"The frequency with which *exaggerated* and *fraudulent* cases presenting the so-called symptoms of concussion of the spinal cord are made the subject of litigation and claims for pecuniary compensation, will be diminished by legislation providing for a wiser and more discriminating use of expert testimony than now prevails."

# ADDRESS BEFORE THE MEDICO-LEGAL SOCIETY OF PHILADELPHIA.

BY JOHN J. REESE, M.D.,

Professor of Medical Jurisprudence and Toxicology, in the University of Pennsylvania.

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MR. PRESIDENT, and Gentlemen of the Medico-Legal Society of Philadelphia, I have been honored with an invitation to make you an address on this evening, which I understand is the opening of your annual session. It has afforded me much pleasure to accept this invitation, for two reasons: first, because it enables me to express to you my cordial sympathy in this movement on your part to inaugurate a Society whose object is to interest the two great professions of Medicine and Law in that most important, but hitherto much-neglected, science of *Legal Medicine*; and, secondly, because I thought that possibly I might be able to suggest to my medical brethren who are members of this Society, some few practical hints pertaining to the subject, which might prove useful in their future development of the science.

I may embrace the occasion to remark that it has seemed to many of us a matter of surprise, that in the city of Philadelphia, which may rightly be termed the mother of American medicine and the nurse of American medical schools, no attention whatever has been given to Medical Jurisprudence as a science, by either of the two professions of law or medi-

cine, until within comparatively few years—very partially in medicine only, but not at all in law up to the present day.

I find, in looking over the literature of this subject, that the first public teacher of legal medicine in this country was Dr. James S. Stringham, of New York, who lectured upon it in Columbia College in the year 1804. In 1815, Dr. T. R. Beck was appointed Professor of Medical Jurisprudence in the Western Medical College; and, not long after, Dr. Walter Channing was elected to the chair of Midwifery and Medical Jurisprudence (a rather curious association of subjects), in Harvard University. Since that period, most of the leading medical schools of our country, and even some of the second and third rate schools, have made this branch part of their regular systematic course of instruction, though, it must be confessed, a very small and insignificant part, inasmuch as it is usually tacked on to some other branch, like an unnatural excrescence, apparently to swell the size of the programme, and thus bid for popular patronage. I need hardly say that the amount of medico-legal instruction given in all such schools is exceedingly meagre.

In the year 1810, Dr. Benjamin Rush delivered an introductory lecture to his course on the Practice of Medicine in the University of Pennsylvania, in which he dwelt in an eloquent and impressive manner on the importance of the study of medical jurisprudence. But no further attention seems to have been bestowed upon the subject by the authorities of that institution for more than fifty years, when the liberality of one of Rush's most distinguished successors in the chair of Practice, the late Emeritus Professor Dr. George B. Wood, endowed a chair of Medical Jurisprudence and Toxicology, along with several other chairs, constituting what is

known as the Auxiliary Faculty of Medicine in the University of Pennsylvania. This, I say, was the very first attempt ever made in this city even to recognize the science of medical jurisprudence. But even this was only a very partial recognition, inasmuch as the study was not made obligatory upon the student, nor was it regarded as essential to his graduation in medicine.

I remarked a few moments ago, that the legal profession in our city had made absolutely no provision whatever for instructing the law-students in the science of medical jurisprudence. This must certainly strike you as a remarkable and somewhat anomalous circumstance. It is, however, true that soon after the establishment by Dr. Wood of this chair in the medical department of the University, in 1865, the trustees created a professorship of medical jurisprudence in the law department of that institution. But, singular to relate, while the programme of the law school embraces (on the published catalogue) a professorship of medical jurisprudence along with the four other law-professorships, the students are quietly informed that attendance on the former course, although recommended, is not obligatory, and that they will not be examined thereon for graduation in law! As a matter of course, such an arrangement makes the medical-jurisprudence professorship a dead letter, and has proved a most effectual extinguisher to any attempt to instruct our rising generation of lawyers in the science of legal medicine. Yet I presume that the average commonsense mind among us, and among the public generally, will fail to comprehend by what species of intuition the Philadelphia law-student is to acquire a knowledge of *criminal law* without ever having learned the principles of medical jurisprudence! The simple



truth of the matter is that our law-students are encouraged (so it would appear) to ignore criminal law altogether. It has been quite too much the fashion for our young barristers to look down with contempt upon this branch of their profession, as savoring too much of the quarter-sessions' practice. This, be it remarked, is a traditionary prejudice, peculiar, I incline to think, to Philadelphia ; but its absurdity is too evident to require comment.

I have ventured these remarks, gentlemen, because I am probably better aware than you can be, of the stubborn nature of the soil which you will have to overcome in our community before you can hope to gather much of a harvest in medico-legal research. I should greatly rejoice to see your Society taking a very decided stand in this matter, exciting the interest that it deserves, and that ought to be so spontaneous, in both the great professions of law and medicine in our city, and enlisting in its support and coöperation the best talent of both professions. In our sister city of New York, such a society has been in active operation for a number of years ; it numbers among its members some of the brightest physicians and lawyers of that city, and its published papers contain most valuable material for the medico-legal student. Certainly, Philadelphia ought not to be lagging behind in this matter ; nevertheless, I must in all sincerity say to you that we can hope for but little success, until we succeed in breaking through the pretty thick crust of indifference, not to say apathy and opposition, that we may have to encounter from both the professions.

Let me now turn to something more directly bearing on the occasion of my meeting you this evening, viz., to venture to throw out a few practical hints in relation to the cultiva-



tion of the study of medical jurisprudence. Let us first clearly understand the meaning of the term. Medical jurisprudence, or, as it is sometimes named, legal or forensic medicine, is the science that teaches the application of medicine to the purposes of the law. The grand object of the law is the discovery of truth. In order to attain this object it lays under contribution every department of knowledge—medicine among the rest. A superficial observer is surprised to discover the intimate relationship subsisting between the two sciences of medicine and law. How many doubtful questions are solved in a court of justice solely by medical jurisprudence? Think only of the numerous cases of sudden death occurring under suspicious circumstances; of persons found dead; of real or alleged insanity; of personal identity; of infanticide and criminal abortion, and numerous other cases depending for their final settlement mainly, if not exclusively, upon medical testimony. In fact, every branch of medicine may be summoned to contribute its quota as occasion may arise. Thus, is it a trial for murder in which the proof of the crime is closely connected with certain marks of violence discovered on the dead body? At once the skill of the anatomist and surgeon, as also that of the pathologist, comes into requisition. Is it a trial for criminal abortion, infanticide, or rape? Here immediately the knowledge of the obstetrician becomes indispensable. Is it a trial for poisoning? Here the skill and experience of the chemist and toxicologist, and, it may be, of the botanist, will become absolutely necessary. And when the case is one involving the complex questions of insanity—as in determining the validity of a will, or the criminal responsibility of a homicide—who can give the required information, or enlighten the court and

jury, save he who has mastered the complex and subtle study of the mental and psychological functions? It were easy to multiply illustrations of this nature, but the above will suffice to indicate the intimate connections subsisting between medicine and law.

It is sometimes the fashion to depreciate the study of medical jurisprudence, as being of no actual practical value to the student or the physician—I need not say the lawyer also; but this mistake must surely arise from the grossest ignorance. It were easy to show the falsity of such an idea. One of the first cases to which the young physician may be called, after settling down to practice, and one to which any of ourselves is liable any moment to be summoned, may be a case involving a knowledge of this very science. For instance, it may be a case of gunshot wound, or of dangerous injury from some other cause, or from the administration of poison. As a skillful physician or surgeon, he, of course, immediately addresses himself to the care of the patient. But should there be any suspicious circumstances connected with the case, and especially if the issue should be fatal, he must not for a moment suppose that his duties end there; far from it. His profession and his position both require him to go into all the circumstances of the case. Were these injuries, or this poisoning, homicidal, suicidal, or accidental? If death resulted from a pistol or rifle ball, what were its direction and distance? If it is a poison case, then did the death really result from the poison, and, if so, what sort of poison? or what latent disease may have been the real cause of death? Or, is a lifeless body discovered in the water—was the death here really caused by drowning, or was a murder first committed and the corpse subsequently thrown

into the water in order to elude suspicion? A thousand questions of this sort are ready to confront the physician in his daily experience; and, unless he has added to his mere medical knowledge an understanding of the principles of legal medicine, he may find himself in an unpleasant predicament, since he will be compelled to assume the functions of the legal physician, when he subsequently appears in court, to give his medical testimony.

I trust I may be pardoned if I put this subject before you in a still more home-like manner, and try to draw a picture, the counterpart of which some of my hearers may but too readily recognize. Let me suppose a young physician, comfortably settled in practice, with everything around him prosperous and happy. Devoted to his profession and well instructed in all its details, he is anxiously looking out for cases on which to exercise his skill and dexterity. He is suddenly summoned to a case of fracture of the thigh, or, it may be, a dislocation of the wrist-joint. With promptitude he repairs to the suffering patient, and puts in practice the well-remembered instructions of the class-room and clinic. He applies his splints and bandages after the most approved methods, he soothes the resulting inflammation, he closely watches for unfavorable symptoms, and he very naturally anticipates a favorable termination of the case; when, unhappily, either owing to some vice in the patient's constitution, some previous bad habits of life, some climatic or hygienic influence, or some of the other thousand contingencies over which the physician can have no control, the patient is attacked with erysipelas or pyæmia, which spreads with frightful rapidity; and after bringing him to the brink of the grave he slowly recovers, but, to the doctor's infinite chagrin

and disappointment, with a shortened limb, or with a stiffened joint. And now comes the trouble. It not infrequently happens that the patient who has received so much kindness and skillful attention, turns upon his benefactor, and rewards him by instituting against him a suit-at-law for alleged malpractice, laying his damages at many thousand dollars. What a monstrous wrong ! What flagrant injustice ! you will exclaim. So, indeed, it is ; but so a jury will not always decide ; and a ruinous verdict may be the termination of the unhappy affair. Gentlemen, let me tell you, this is no mere fancy sketch, but it has been realized, possibly, in the experience of some whom I now address.

Now, what is the remedy for this evil ? Mere professional sympathy on the part of his medical brethren will not meet it. You cannot reach it by mere enactments of law. The only effectual method of relief, I believe, is to elevate the standard of medico-legal knowledge in the professions of medicine and law. Let the physician fully understand his medico-legal rights, as well as the principles and practice of medical jurisprudence, and he need then have no fear to encounter such obstacles as we have been considering.

But there is another aspect of the case quite as practical, and quite as important to the medical practitioner, involving a knowledge of medical jurisprudence,—I mean his position and duties as a medical witness. Professor Guy very appropriately remarks that “as witnesses in courts of law medical men have duties to perform for which the ordinary practice of the profession affords no adequate preparation, and, until of late years, medical education no proper training, and medical literature no sufficient guidance.” As has been aptly remarked by another, “a man may be well qualified to prac-



tice medicine as a physician or surgeon, and yet find himself very deficient when called upon to act as a medical witness." A notable illustration of this is afforded in the person of the illustrious John Hunter. This distinguished anatomist and surgeon was called as a professional witness for the prisoner, in a certain memorable trial for poisoning with laurel-water. In the course of the cross-examination, the great man completely broke down ; he was unable to give a satisfactory answer to the final question put by the court, whether the death proceeded from the poison, or from some other cause. Hunter candidly admitted his deficiency, although he suffered most acutely from the mortification entailed thereby ; and we are told that he deeply regretted to the day of his death, that he had not given more attention to subjects of this nature.

I think we are now prepared to understand that the duties of the medical jurist are quite distinct from those of the mere physician or surgeon. While the latter looks only to the treatment of disease or accident, and the saving of life, the object of the former, in a large proportion of cases, is to aid the law in discovering the perpetrator of a crime, or in rescuing an innocent person from an unjust charge. For instance, a medical man is summoned to attend a person laboring under the effects of a fatal poison, criminally administered, but at the time he may have no suspicion of the fact. In spite of treatment, death ensues. Here the function of the practitioner ceases, while that of the medical witness begins. It is utterly impossible for him now to escape giving evidence, or to shift the responsibility upon another. The law will insist upon his appearance, first at the coroner's inquest, and afterwards at the assizes. Now, I assume that, as a reg-



ular licensed practitioner, he is fully competent to answer every question put to him in the court-room relative to the general properties and effects of poisons, the quantity of each required to destroy life, the time when they prove fatal, the post-mortem results, etc. Then, if it is objected that the death was caused by disease, and not by poison, the searching inquiry will be as to what diseases resemble poisons in their symptoms, effects, and post-mortem characters ; and, lastly, the liability to fallacy in the chemical processes employed to detect the poison. This is only one of the many instances which illustrate the special duties of the medical jurist, and how they differ from those of the mere practitioner of medicine.

This leads me to recommend, as a matter of the greatest importance, the cultivation of the faculty of close and minute observation on the part of those who wish to become proficient in this science. To observe well is one of the highest attainments in the medical art ; but it is pre-eminently important to the medical jurist. Whenever he is summoned to a case, let him observe carefully and accurately *everything* around him, even the minutest circumstance. Nor let it be supposed that the cultivation of this habit of minute observation is at all incompatible with the highest professional character. No one ever doubted the skill and ability of Sir Astley Cooper as a surgeon, yet he cultivated this very habit to a remarkable degree ; and, on a certain occasion, when he was summoned to visit a gentleman who was shot by a pistol-ball, this faculty was of signal service in enabling him to point out the murderer by a close observation of the direction of the ball, and the relative position of the injured man ; and finally leading him to the conclusion that the weapon had been fired by a left-handed person.

I suppose there can hardly be a more embarrassing position for a medical man to occupy, than when for the first time he goes upon the witness stand, to testify before a crowded court-room, in a capital case, and to deliver his *opinions* which may affect the awful issue of life or death to the prisoner at the bar. If summoned simply as an expert—that is, to give his opinion on matters testified to by others—his responsibility is, if anything, rather increased. But if he has first thoroughly studied the case, and scrupulously examined all sides of the question, and is master of the science of legal medicine, he need have no fear of the result, no matter how much he may feel annoyed and provoked by the attempts of a rude and blustering counsel, in the cross-examination, to intimidate him. Knowing that he has been sworn to tell the whole truth, and conscious of the desire *only* to bring out the truth, he will maintain a calm and dignified composure as a witness; he will not be betrayed into angry rejoinders to counsel, nor into an attempt to argue with him; he will confine his answers strictly to the questions put to him, avoiding all prolixity, and all attempts to display his knowledge by haranguing the court and jury. He will not allow his temper to be ruffled (though if young in the business he will be sorely tempted), when questioned by a flippant counsel as to his professional abilities and opportunities, the number of cases he has attended, the mistakes he has made in his practice, and many other little matters calculated to vex and annoy him. Nothing makes a witness appear in a more ridiculous light, nor more prejudices his testimony before the court and jury, than the exhibition of a testy, irritable disposition when thus under fire. He should, therefore, most scrupulously guard against it.

I have already said that all his replies to counsel should be direct; they should never be evasive nor ambiguous, since this suggests a suspicion of either ignorance or dishonesty on his part. The answers should be given in a clear, audible tone of voice, and directed rather to the jury, inasmuch as they are specially interested in obtaining the information requisite to guide them in their verdict.

As a final suggestion, let me venture particularly to recommend the medical witness to avoid as far as practicable the use of all technical words or phrases. This is one of the most common and grievous faults to which he is exposed. From long habit of expressing himself before medical assemblies in technical and scientific language, he is led to employ, unconsciously, the same phraseology in the court-room, forgetful that neither the jury, court, nor counsel can possibly comprehend his learned utterances. How, think you, would an average jury understand his meaning, if, in describing a post-mortem operation on the head, he informed them that "he had reflected back the integuments and exposed the calvaria?" Would it not have been much plainer to them, and therefore much better for him, to have simply stated that "he turned back the scalp and exposed the skull?" How very few will know what he means when he talks about the "parietes of the abdomen," the "reflections of the peritoneum," the "os calcis" or "os femoris," the "dura mater," "pia mater," "corpus striatum," etc.? How far better to employ the simplest possible terms, and the plainest English, in describing what may be of the greatest importance for the jury to comprehend! Many of you have doubtless read of the laughable scene described by the late Professor Taylor as occurring in one of the English courts at a trial for assault

and battery, where the medical witness, in giving his evidence in the case, informed the court that "in examining the prosecutor he found him suffering from a severe contusion of the integuments under the left orbit, with great extravasation of blood, and ecchymosis in the surrounding cellular tissue, which was in a tumefied state. There was also considerable abrasion of the cuticle." This magniloquent description for a time bewildered the court, until it was resolved by the judge himself into the simple words—a *black eye*. Surely, no man of sense need be told that all such affectation and pedantry are in the worst possible taste, and are calculated to bring the witness into deserved contempt.

I have thus, gentlemen, ventured to offer you a few hints of a practical character, which, it occurred to me, might possibly be of use to those members of your Society who have not as yet had much experience in medico-legal matters. To many of you, doubtless, my suggestions may have appeared somewhat trite; but I shall feel gratified if I have succeeded in inspiring even a few of your members with a more lively interest in the pursuit of medico-legal knowledge, and a stronger determination to enlist the sympathy and co-operation in our city of the two great professions of medicine and law.

# SIXTH INAUGURAL ADDRESS

OF

CLARK BELL, AS PRESIDENT,

PRONOUNCED JANUARY 9th, 1884.

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GENTLEMEN OF THE MEDICO-LEGAL SOCIETY:

I should not be mindful of my duty nor evince a proper sense of the honor conferred, did I fail to thank you for the renewed expression of your confidence, manifested in my election, with so much unanimity, to the Chair for the sixth time.

It was my earnest wish, as stated at the November meeting, not to enter upon this labor for the coming year, and I had supposed and hoped that you would have chosen some one of the abler medical men of this society to preside over your deliberations.

## MEMBERSHIP.

On assuming the chair in January, 1882, there were 177 names upon the roll of active members, a considerable number of whom were members only in name, who were dropped or have resigned; but the accessions of that year were considerable, increasing the active list, on December 31, 1882, to 267 members.

I have to congratulate you on the remarkable success which has attended our labors for 1883, which shows an



increase in our active list to 314, of whom 154 are lawyers, 147 physicians, and 3 scientists.

Our resignations during 1883 have been very few, our principal loss in membership arising from dropping names for non-payment of dues, under the provisions of the By-Laws, and the large increase in our membership is all the more gratifying when we regard the high character and standing of the newly elected members, and the interest taken by them in our labors.

The list of Honorary members has been enriched by the names of Prof. J. Maschka, of Prague, Bohemia, and of Prof. Krafft-Ebing, of Graz, Austria, and now numbers 7 names.

The following lustrous names have been added to our list of corresponding members: Prof. Arrigo Tamassia, of Riggio-Emillia, Italy; Profs. Leonardo Bianchi and G. Buonomo, of Naples, Italy; Prof. H. Aubrey Husband and W. W. Ireland, M.D., of Scotland; Profs. A. Motet and Benjamin Ball, of Paris, France; Prof. Dr. Furstner, of Heidelberg, and Dr. C. H. Hughes, of St. Louis, Mo., making the present number of corresponding members 16. Total membership, 337.

The growth and prosperity of the Society has been during the past year unparalleled in its previous history, and greater than the most sanguine of its friends could have hoped.

#### LIBRARY.

I am glad to announce that the additions to the library for the past year have been 203 volumes and 2,201 pamphlets. During my recent two years of service, as during the early three years of my presidency of this Society, no money whatever has been voted from the treasury of this Society

for the purchase of books. All have been the voluntary gifts of members and their friends.

The accumulation of books and pamphlets is now beyond the capacity of our present accommodations, either in library cases or in room for the same, and the Society must speedily consider the propriety of finding a more eligible location for the library—one more in accordance with its increasing value, its future, and the accommodation and needs of both professions. I have proposed to Mr. Bangs, the president of the Bar Association, subject to your approval, that we place our library on their shelves, giving their members free use thereof, for its care, if our members can be secured the privilege of access thereto, which proposal he promises to bring before that body. In case that can not be accomplished, the Library Committee should be instructed to take into serious and early consideration what should be done with our library in the near future, in the matter of providing it with a suitable home. The report of that Committee will show the list of donors for 1883, which, while gratifying and praiseworthy, I regret does not embrace the names of all the members of this body. If each member contributed but one volume per annum, it would swell our catalogue, and soon make our collection the pride, not alone of the Society, but of the country. I hope all will feel willing to thus encourage our labor, and enrich the collection.

#### FINANCES.

The total receipts for the year 1883, from December 31, 1882, to December 31, 1883, have been—

For initiations .....	\$ 185 00
“ dues.....	1,022 00
	<hr/> \$1,207 62

There has been expended :

For acct. of subscriptions to MEDICO-LEGAL JOURNAL, 100 subscriptions at \$3 for Vol. I.....	\$300 00
“ acct. of subscription for members..	150 00
“ printing and stationery, postage and current expenses.....	649 71
“ acct. of Series Three Medico-Legal Papers .....	100 00
	—————\$1,199 71

The Society has subscribed for 100 copies of the Medico-Legal Journal, for two years, at regular subscription price, (\$3,) payable semi-annually in advance, and for one copy for each member at \$1.00 per copy, payable in advance, the cost of which has been provided for by an increase in the annual dues of \$1.00, so that, assuming that the membership should be only 325 paying members, the obligations of the Society for the publication of all its papers and proceedings in this manner will be limited to \$625 per annum.

The natural increase of membership will, it is believed, make the reduction of the dues to \$3.00 proper and feasible when the roll is increased to 400 members, and I should recommend that reduction when the roll of members reaches that number, which ought to be accomplished the present year.

#### THE MEDICO-LEGAL JOURNAL

Has been established since the commencement of 1883, its first number appearing in June, with an issue of 500 copies, which was speedily exhausted; this has been increased so that No. 3 was issued in December with 1,000 copies, which it is feared will not keep pace with the demand.

The Society assumes no liability for the expenses of this

Journal beyond the amount named for subscriptions. The 100 copies subscribed are sent to libraries, societies, officials and journals, on the list fixed by the Committee of the Society who had that subject in charge, and the demand for exchanges has been so large, both in our own country and abroad, that more than 150 copies are now required, and the Society could well afford to increase its subscription for that purpose, from 100 to 150, as soon as its financial condition would warrant, which will probably be at the commencement of Vol. 2 of the Journal, in June, 1884.

#### SERIES 3, OF THE MEDICO-LEGAL PAPERS

Is in press and is well advanced toward completion. Some 300 pp. having been printed, and the work will appear during the coming spring. Under instructions from the Society, the Committee on publication of the papers of the Society have arranged to transfer the subscription list to the publisher, Mr. Leon F. Kuhl, and to take 100 copies of the work, half paper and half cloth, at the price of \$300, which limits the liability of the Society for the publication of Series 3 to that sum.

#### WORK OF THE YEAR.

The Scientific work of the year and the labors of the Society have been briefly, as follows :

1. The Report of the Committee, upon the modification of the law regarding Coroners, and the preparation of a Bill laid before the last session of the Legislature of this State, which is still to be acted upon by that body.
2. The Report of the Permanent Commission in response to the request of the Attorney-General of the State and the State Commission in Lunacy upon Senate Resolution, as to needed reforms and changes in the law regarding the commitment, care and treatment of lunatics.

3. The Report of a Select Committee and the preparation of a proposed Bill for needed reforms in the lunacy laws, submitted to the last Legislature, which have not yet been acted upon, but which with the Report of the Permanent Commission was, as it is believed, influential in the passage of the Lunacy Bill in the Legislature of the neighboring State of Pennsylvania.

4. Paper by Prof. H. A. Mott, Jr., on a case of Poisoning with Nitrate of Silver; A Plea for Lunacy Reform, by E. C. Mann, M.D.; Mysterious Disappearances and presumption of death in Life Insurance cases, by Wm. G. Davies, Esq.; Experts and Expert Testimony, by D. C. Calvin, Esq.; Insanity as a defense for Crime, by Hon. Geo. B. Corkhill; Mechanical Restraints in the care and treatment of the Insane, by Alice Bennett, M.D.; Obligations of Society toward the Insane, by Rev. Heber Newton; Report of Select Committee on Experts and Expert Testimony, by E. J. McIntyre, Esq., John Shradý, M.D., E. C. Mann, M.D., and B. A. Willis, Esq.; Jury Trial of the Insane, by R. L. Parsons, M.D.; A Fatal Case of Poisoning by Arseniate of Sodium, by Prof. Benj. Silliman, of Yale College; Sanitary Laws relating to buildings in New York, by Chas. F. Wingate, Esq.; A Fatal Case of Poisoning by Arsenic, by Prof. J. J. Reese, of Philadelphia; Concussion of the Spine in Railway Cases, by J. G. Johnson, M.D.

The year closes with unusual prosperity and success, both in increase of members and amount of labor, over any preceding year of my connection with the management of this Society.

#### NECROLOGY.

We have lost by death during the year 1883, Dr. GEORGE



M. BEARD, one of our early members, a valuable contributor to the literature of the Society, and whose portrait will appear in the forthcoming Series of Medico-Legal Papers.

Albert Herrick, Esq., a recently elected member, prominently identified with the District Attorney's office for the United States for this District, of remarkable attainments, and who died at the commencement of a brilliant career.

Dr. J. L. Banks, one of the early members of this Society, who, although not active in our labors, took an interest in the success and prosperity of the Society.

Dr Charles Wright, of this city, who died in London. He had been for years a member, who took a deep interest, but who did not contribute papers to the Society. He had a large circle of friends, and his death was universally regretted by the profession and the Society.

Dr. Frederick T. Lente, a former corresponding member, a physician of high attainments of unblemished character, who had the affection and confidence of all who knew him, and was a devoted student of his profession.

#### LEGISLATION.

The subjects of greatest interest in the body for Legislative action, are

1. Reform in the lunacy statutes, on which this Society has taken action, its position is well defined, and which will undoubtedly be before the present Legislature.

2. Reform in the law regarding coroners, which recent events have brought to public attention, upon which the press seem enlisted for the adoption of the law suggested by our Select Committee.

3. Defining the law as to expert and expert testimony which is still under discussion.

4. Regulating the proper sanitary supervision of the public schools.

5. Establishing a State chemist and laboratory, and providing for analysis in toxicological cases, at the expense of the State, by a public official of high character, selected by the State and responsible directly to the people.

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*Progress of the Science of Medical Jurisprudence.*

FRANCE.

The most important to this Society in interest is—

*The French Society.*—The bulletin of the French Society for 1883 has not yet reached us, and my knowledge of its labors are such as have been derived from the *Annales de Hygiene et de Medicine Legale*. The record of its labors in my last address carried the work to March, 1882.

On the 8th of January, 1883, M. Ernest Chaude, who had been President of that Society, one of the most eminent men of the French bar, made his retiring address, alluding to the papers of M. MOTET on "Somnambulism;" of M. LE GRAND DU SALLE, on "Hypochondria, with Suicide;" of M. LUTAUD, on "The duty of the Physician in withholding information as to the paternity of the child, as required by the French law;" and among others, the report of M. ROCHER, in reply to the letter of the Prefect of the Department of the Seine.

M. BROUARDEL delivered his inaugural address and assumed the Presidency of the Society, to which he had been elected the preceding December (1882).

Dr. P. BROUARDEL read a paper entitled "The Secret Remedy" (*Cosmetique delacour*.)

Dr. LOUIS SENTEX, a paper on "Violences Legeres sur la tete, de la Masse Encephalique, Mort Rapide," etc., etc.

At the April session, Dr. LOUIS PENARD submitted the first part of an extended review of series 2 of Medico-Legal papers, issued by this Society, reviewing at length the papers of Dr. S. ROGERS, Dr. WOOSTER BEACH, and of Dr. W. A. HAMMOND. He announced that the review would be continued. This part appears in *Annales de Hygiene et de Medicine Legale*, vol. ix., p. 408 (1883.)

At the March session, 1883, M. CHAUDE presented a paper upon the question, "Should midwives treat diseases of women generally?" Should the Medical Associations take legal steps to prevent illegal practices on their part?

Dr. LOUIS SENTEX submitted a paper on "Statistics of Criminality in the Department of Landes, from 1830 to 1880."

M. MOTET read a paper entitled "Morphinomania."

Dr. LOUIS PENARD, a paper on the subject of "Experts in Legal Medicine."

At the June session, 1883, M. BROUARDEL, the President, read a paper, entitled "Aux Attentats a la Pudeur." The Minister of Public Instruction announced a Congress of the Societes Savants for 1884, to the French Medico-Legal Society.

At the July meeting of 1883, a report was made by M. MOTET, M. BLANCHE, M. VOISIN and M. BROUARDEL on the mental state of an accused, on request of the Judge of Instruction.

M. BROUARDEL read a paper, entitled "Sur les Vulvites et sur causes d'erreur commises dans leur diagnostic au point de vue Medico-Legale."

*The Societe de Medicine Publique* of Paris is engaged in a work of great interest to this society. M. BROUARDEL, who had been its President, retired January 24, 1883, pronouncing

an interesting retiring address, and was succeeded by M. WURZ, who was elected the head of that body for 1883.

The French Association for the Advancement of Sciences announce a congress to be held the coming year at ROUEN, and have formed a section of Hygiene and of State Medicine,

Dr. V. DE CLAUX contributes an important paper, entitled "Insanity and Divorce," in October, 1883, and has commenced the "Medico-Legal Archives," which will be of great interest and value to students of the science everywhere.

The French journals devoted to this science of greatest interest are :

*Annales de Hygiene et de Medicine Legale.*

*Archives de Neurologie.*

*La Encephale.*

And the bulletins of the various French learned and scientific societies. The contributions to the French Bibliotique is too extensive to attempt an enumeration in this paper.

#### ITALY.

No foreign country evinces more interest at the present moment in Medical Jurisprudence and its allied sciences of neurology and psychiatry than Italy.

*Rivista Sperimentale di Freniatria e di Medicina-Legale* is a journal of the highest character devoted to these subjects. and is supported by an exceptionally strong staff of original contributors, second to no journal in the world in the value or character of its contributions, and is now in its eighth year.

*Archivio. Psichiatria Scienze Penali ed Autropologia Criminale, etc.*, under the direction of C. Lombroso, of Turin ; R. Garofalo, of Bologna, and E. Ferri, of Siena, Italy, now in its fourth year, has an unusually large list of collaborateurs

from both professions of law and medicine, representing every considerable Italian city, and some of the prominent German specialists in psychiatry.

*La Psichiatria La Neuropatologia e le Scienze affini* is a new journal, started the present year at Naples, Italy, under the direction of Prof. G. Buonomo and Dr. L. Bianchi, containing original articles of great ability from its editors and the collaborateurs, a review of the titles of its papers and the names of the authors would show were of great value to the student of legal medicine.

We are advised that a serious movement to found in Italy a Society of Medical Jurisprudence is on foot, and that its success is only a question of time, in the result of which the Medico-Legal Society of New York will take a profound interest.

#### GERMANY.

We are becoming better acquainted with Germany than hitherto. Prof. Dr. FURSTNER, of Heidelberg, has accepted the position of Corresponding Member, and will contribute papers to our Society and JOURNAL. Prof. Dr. J. MASCHKA, of Prague, an acknowledged authority on medical jurisprudence, has sent us some of his works, and promises contributions to the Society and JOURNAL. Prof. KRAFFT-EBING, of the University at Graz, Austria, has donated several of his works to the library and has promised to send us original papers.

Arrangements are inaugurated to give us early advices of the transactions of the prominent societies in German-speaking countries connected with the science, to interest the leading German scientists in the work of this society, and to identify them with its labors. The transactions of the *Society*



of *Alienists and Neurologists of Southwestern Germany*, at Baden-Baden, for June, 1882, published in No. 3 of the JOURNAL, shows the interest taken by that body, and we hope similar societies in Germany will come into correspondence with our own for mutual benefit and co-operation.

*The Society of Psychiatry and Legal Psychology of Vienna, in Austria*, is a co-worker with us, with whom we hope to come into intimate relations. We shall publish its transactions in the next issue of the JOURNAL, and its officers for 1883 are given in its last number.

*The Society of Psychiatry and of Nervous Diseases of Berlin*, is doing an important work in that country. The record of its labors for the year 1882, under the presidency of M. Westphal, are furnished in *Archives fur Psychiatrie und Nervenkrankheiten*, a resumé and translation of which appears in the September number of the *Archives of Neurologie*, from the pen of one of its editors, M. P. Keraval, a translation of which will, it is hoped, appear in the JOURNAL. I have no record of the labors of this body for 1883.

*The Society of Psychiatrie of Berlin*, under the presidency of M. Loehr, is at work upon this branch of the science. A record of its labors for the sessions of December, 1881, and of March, June and December, 1882, appears in the *Allgemeine Zeitschrift fur Psychiatrie*, vol. 39, No. 5; also, translated into the same French journal by M. P. Keraval. Its later labors will reach us during the coming year.

*The German Society of Alienists of Lower Saxony and Westphalia* meet annually for the discussion of questions concerning the care and treatment of the insane, etc. The fifteenth session for 1881 chose Dr. Snell for its President and Dr. Tannen for Secretary. Its sixteenth session was held at

Hanover, in May, 1882, a brief resumé of which is given in the September number of the MEDICO-LEGAL JOURNAL. The report of the session of May, 1883, at Hanover, has not reached me.

*The Society of Neurologists and Alienists of Southwestern Germany* held its seventh annual meeting at Baden-Baden in June, 1882. Dr. Rinecker, Privy Counsellor, was elected President, and Dr. Muller, of Strassburg, and Dr. Gruff, of Heidelberg, were chosen Secretaries. The papers read and the debates were of the most interesting character.

We have received no account of the session held at Baden-Baden in June, 1883.

The literature of the science in Germany is very rich, and a large number of men in the German-speaking countries contribute to forensic medicine.

The prominent German journals may be briefly mentioned :

*Allg. Zeitschrift für Psychiatrie und Gerichtliche Medicine*, now in its thirty-ninth volume.

*Archives für Psychiatrie und Nervenkrankheiten*, now in its thirteenth volume.

*The Quarterly Journal of Medical Jurisprudence and Public Hygiene of Berlin*.

*Archives de Virchow*, *Das Irrenfreund*, *Friedrichs Blatter*, and other German periodicals upon the various branches of the science are of value to the student.

#### DENMARK.

An International Medical Congress is announced to be held at Copenhagen for August 10th to 16th, 1884, with a section of Neurology and Psychiatry, under the chairmanship of Prof. Steenberg, and for Secretary, Dr. Friedenreich. It

prints an interesting programme of subjects and questions for discussion, viz. :

*Psychiatry* :—

1. Statistics of mental diseases and asylums of the countries of the North.

2. A proposition for uniformity in the annual reports of the Insane Asylums of different countries.

3. Treatment of insane in the colonies.

4. Value of exercise in the treatment of mental diseases.

5. The effect of schools in the production of mental diseases.

6. Temperature of the body during the primary stages of mental diseases.

7. Insanity in infancy.

8. Perversity of sexual instinct.

9. Mental troubles following epileptic attacks.

10. The part which syphilis plays in general paralysis.

11. Anatomical characters of the brains of idiots.

12. What is the best method of treatment for the morphine habit—and in what condition is it the best ?

*Neurology* :—

1. The effect of lesions of the peripheral nerves in producing anatomical changes in the nerve centres.

2. Secondary degeneration in the brain and spinal cord.

3. Difficulty in speech of cortical origin.

4. Difficulty in vision of cortical origin.

5. Cortical epilepsy.

6. Vasomotor and trophic neuroses.

7. The value of the affection of the peripheral organs (particularly the sexual organs) in producing functional diseases of the nerves, especially hysteria.

8. Amyotrophic lateral sclerosis, or amyotrophic progressive bulbar paralysis, especially in regard to the constancy of anatomical lesions and to its difference, or its identity with progressive muscular atrophy (Aran-Duchenne.)

9. The curability of Tabes dorsalis.

10. The role played by syphilis in the etiology of Tabes dorsalis.

11. Is the paralysis of Laury a particular disease or only a symptom which is produced by different pathological processes?

12. The value of nerve stretching as a means of cure.

Those who wish to make additions or modifications in this programme were invited to communicate with the president of this section before December 1st, 1883.

#### ENGLAND AND SCOTLAND.

There is little to report, save the increased acquaintance and intimacy growing up between the English Scientists of Medical Jurisprudence and ourselves. Prof. H. Aubrey Husband and Dr. W. W. Ireland, of Scotland, have been placed on our list of corresponding members, and correspondence is held with many other prominent names in Great Britain to bring leading alienists in closer and more intimate relations, which will doubtless bear fruit the present year. No movement is on foot as yet, so far as I am advised, for the organization of a Medico-Legal Society in Great Britain. The Medico-Psychological Association is doing a great work in England, which is of deep interest and importance to this body, and we hope to see a resumé of its transactions in the MEDICO-LEGAL JOURNAL. Its organ is the *Journal of Mental Science*, to which we are indebted for its transactions, which are reprinted in part in the JOURNAL.

The coming year will doubtless increase our corresponding list by several prominent English and Scotch names.

The English journals, besides the one named, of greatest interest in Medical Jurisprudence, are *Brain*, edited by Dr. Bucknill, Dr. J. Crichton Browne, Dr. D. Ferrier, Dr. J. Hughlings-Jackson and Dr. A. de Watterville.

*Mind*, a Quarterly Review of Psychology and Philosophy, published by Williams and Norgate, of London, and occasional articles on subjects connected with the Science in the Medical Journals. At present England is behind most other countries in the study of the science of Medical Jurisprudence.

#### AMERICA.

The year has witnessed a constantly increasing interest in Medical Jurisprudence, extending throughout the medical as well as the legal profession, in many of the American States.

The Journals are increasing in number and value upon the kindred sciences.

The *Alienist and Neurologist*, of St. Louis, a quarterly, edited by Dr. C. H. Hughes, has during the past year made great progress in Neurological Studies and upon the various questions relating to the Insane.

The *Journal of Nervous and Mental Diseases*, under the charge of W. J. Morton, M.D., is making decided and valuable contributions to the literature of its specialty.

The *American Psychological Journal*, the organ of the National Association for the Protection of the Insane and the Prevention of Insanity, edited by its President, Dr. J. Parrish, is an apt illustration of the public interest in that subject, while

The *American Journal of Inebriety*, edited by Dr. T. D.



Crothers, is working its way into public favor, upon a branch in which it seems to have almost the exclusive field. There is quite a list of Chemical Journals devoted to a cause so important to Medical Jurisprudence in demonstrating and solving problems otherwise unknowable, if perfectly exact and demonstrable results are obtained.

The *American Journal of Psychiatry* is working its way to popular favor in its department.

The Neurological Society of this city has certainly been of great service in its special labors, as has the National Association of American Superintendents of Insane Asylums, and the *American Journal of Insanity*, edited by its President, Dr. Gray, of Utica.

The Massachusetts Medico-Legal Society continues its valuable labors. Its last publication was for 1882, and its original articles were: What Constitutes a Medico-Legal Autopsy? by S. D. Presbry, M.D., President of that Society; On the Habitual Use of Poisons, by A. H. Johnson, M.D.; Report of a Case of Homicide, by C. C. Tower, M.D.; The Medico-Legal Relations of Chronic Alcoholism, its Pathological Aspects, by G. K. Sabine, M.D. The titles of papers read before it for 1883 are as follows: "Two Recent Supreme Court Decisions of Interest to Medical Examiners," by Med. Exr. F. W. Draper, Boston; "A Case of Murder," by Med. Exr. A. E. Paine, Brockton; "Infanticide," by Med. Exr. J. G. Pinkham, Lynn; "A Case of Delayed Putrefaction," by Med. Exr. W. H. Taylor. This Society numbers nearly seventy members, including its corresponding list, and is doing a great work for the science, composed as it is of the Medical Examiners appointed under the new Massachusetts law, in the place of coroners, upon the aboli-

tion of that officer. The working of the law is a complete success, both in its economy to the State, and its useful and practical operation.

The formation of a Medico-Legal Society has been agitated recently in Philadelphia. Prof. J. J. Reese has pronounced an address favoring its inauguration, and if successful, it must receive our fraternal greetings and all the encouragement and aid that is in our power to give.

The literature of the year has been unusually prolific. The best list of which that has come under my observation, is the very valuable and complete report made by C. H. Hughes, M.D., W. W. Godding, M.D., and W. B. Goldsmith, M.D., as a committee to the annual meeting of the National Association of American Superintendents of Insane Hospitals, for 1883, and must be of interest as an indication of the growing interest in both professions in the science. It is published in full in the October number of the *Alienist and Neurologist*.

#### TRANSLATIONS.

Pursuant to recommendations made last year, a committee on translations was formed, which is at work, but as yet has made no formal report of its labors. I shall with your permission continue this committee, with some changes in its personale.

The Standing Committees will be announced at this meeting or the subsequent one.

#### GENERAL RECOMMENDATIONS.

I recommend that the Permanent Commission, while left free to select the President of the Society for Chairman should they desire to do so, should have the right to choose a Chairman from their own number.

There are many occasions where it would be better if that body worked like other Committees, and not under the Chairmanship of the President, of which the Commission is, and should be, the best judge.

Such members of the Society as are willing to donate a volume each year to the library, should at once forward their name to the President or Secretary, to be added to the published list of donors.

Members desiring to subscribe for Series 3, Medico-Legal Papers, should also send in their names to the committee on that publication for a like purpose.

#### COMMISSION TO REVISE LUNACY LAWS.

The Governor of the State of Pennsylvania in May, 1882, appointed Seven Commissioners to examine into the system of that State for the care of the insane, and to inquire into the legislation of other States and countries, and to report the result of their investigations, with their conclusions and recommendations. The report of that committee, composed of three eminent physicians and four distinguished citizens of that State, proposing a Bill, recommending radical changes in the law, resulted in the adoption and passage of an act by the Legislature of Pennsylvania, covering most important and comprehensive provisions relating to the commitment, care, treatment, visitation and the general charge, supervision and management of the insane. The defects in existing lunacy laws in this State are generally acknowledged by alienists, lawyers and publicists. The recent report of the State Charities Aid Association adds important reasons for action, and the public press has given its great aid to awakening public interest in, and attention to the adoption of proper amendments thereto. I recommend, in view of the circum-

stances, that the Society memorialize the Governor of this State, to nominate a similar commission of at least seven members, composed of prominent alienists and lawyers, to make a like examination and report, with a view of furthering necessary reforms in our lunacy statutes. The forthcoming report of the Commission appointed by Gov. Hoyt, of Pennsylvania, giving an abstract of the laws of all the American States and Territories regarding lunatics, with an examination of the English, German, French and other statutes, compiled mainly by Geo. L. Harrison, Esq., a member of that Commission, will be of great service to publicists and legislators throughout the American States in the adoption of suitable, and it is hoped more uniform, lunacy laws in the United States.

#### FINALLY.

The steady growth and increase of the Society in numbers, usefulness and scientific labors, should be a source of just pride and satisfaction to every person interested in medical jurisprudence and the welfare of this body. The gradual but splendid growth of the library, the elimination of elements antagonistic to the progress and growth of the Society, should encourage all who feel an interest in the prosperity, success and usefulness of this body.

There has never been a time in the history of this Society, when we could look with greater confidence for an increase of its usefulness, or more hopefully to a union of the two professions of Law and Medicine on a firm and enduring basis, as co-workers for the growth, the development, and increasing public interest, in the science of Medical Jurisprudence than the present.

## TRANSACTIONS OF SOCIETIES.

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### THE MEDICO-LEGAL SOCIETY OF NEW YORK.

PRESIDENCY OF CLARK BELL, ESQ.

NOVEMBER 7, 1883.—The minutes of the meeting held October 3, 1883, were approved. The following gentlemen were elected to active membership:

Luther R. Marsh, Esq., George E. Moore, M.D., and Isaac L. Rice, Esq.

The following resolution was unanimously adopted:

*“Resolved, That members of this Society, elected after July 1st, in any year, shall be required to pay only half yearly dues for that year.”*

The Executive Committee recommended that the Society take the option to pay Leon P. Kuhl, printer of Vol. 3, Medico-Legal papers, \$300 in full for one hundred copies, and transfer to him the Society's subscription, giving him the whole edition and the subscription, limiting the Society's liability to that sum.

On motion the recommendation was unanimously approved.

The paper of the evening, entitled *“A Toxicological Case of Poisoning by Arsenic Acid,”* by Prof. J. J. Reese, of Philadelphia, was read by Prof. C. A. Doremus, in the absence of the author, which was discussed.

At request of the Chair, D. C. Calvin, Esq., read the article on *“The Moral Sense and Will in Criminals,”* from Dr. Henry Maudsley's forthcoming work, *“Body and Will.”*

The paper was discussed by D. C. Calvin, Professor C. A. Doremus and others.



The remarks of Prof. C. A. Doremus on the paper of Prof. Reese were as follows : There is one point which does not come, it seems to me, within the jurisdiction of the coroner's physician, and that is, the preservation of parts of the stomach, &c., with alcohol.

It is unwise for any coroner to add anything in preserving the parts ; it simply complicates matters as a rule. They should be received by the analyzing physician in exactly the same state or condition as they are when taken from the body, without any addition whatever.

A pure solvent may not always be used, and in that case it would do more harm than good. I do not know that I am justified in discussing this matter in the absence of Prof. Reese.

The Chairman : I think you may feel perfectly free to discuss the matter in the absence of Prof. Reese.

Prof. Doremus : I do not think there is anything much to discuss about it. This case is a very clear one. The amount of arsenic was very large ; 58 grains was a very large dose.

I do not know of any recent case that amounts to quite so much. It does not seem to me to be anything but a very clear case of arsenic poisoning.

It might be, however, that in some cases of poisoning, the coroner's physician, not knowing what the poison is, would have to look for the organic poisons, and then it is that a pure solvent becomes a matter of necessity.

If all coroners feel that they are at liberty to add liquids of any kind, for preserving the parts, they may then take their choice. If they cannot get one, they may take another, and they may take something that is harmful.

As a rule, they want to open the intestines, and see what is in them, and then, if they think that they ought to be preserved, they make their own choice of liquid to be used in preserving them.

They may use carbolic acid, or chloride of zinc.

Dr. O'Sullivan, chairman of Committee on Hygiene in Public Schools, submitted a resolution commending the course of Gen. Alexander Shaler, President of the Board of Health, in regard to his recent action to improve the sanitary condition of the public schools, and expressive of the interest the Society felt in this work. Which was carried unanimously.

The President was, on motion, directed to communicate with President Shaler, advising him of the action and sympathy of the Society.

John Henry Hull, Esq. moved that a Committee on Hygiene and Sanitation in Public Schools be appointed for Brooklyn, composed of members residing in that city. Carried unanimously.

Nominations for officers were made for the ensuing meeting.

Mr. Clark Bell, on being renominated for President, stated that it was his earnest wish not to serve for another year. That the duties of the office, connected with the increased labor attending upon the JOURNAL, seriously interfered with his professional duties, and he hoped some medical gentleman would be selected for the presidency.

Dr. M. H. Henry was nominated, and D. C. Calvin for the same office.

Hon. D. C. Calvin declined the nomination.

The former officers were renominated, with the exception that Dr. E. C. Mann and E. J. McIntyre were nominated for Assistant Secretary, and Mr. A. S. Hamersley, Jr., for Treasurer.

Meeting adjourned.

LEICESTER HOLME, *Secretary.*

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THE MEDICO-LEGAL SOCIETY OF NEW YORK.

PRESIDENCY OF CLARK BELL, ESQ.

DECEMBER 5, 1883.—Annual meeting for the election of officers. CLARK BELL, President, in the chair.

John Cotton Dana, Esq., was elected an active member, and Prof. Krafft-Ebing, of Graz, Austria, was elected an honorary member.

The Assistant Secretary, Gilbert R. Hawes, reported that he had sent election lists and blank ballots to every member of the Society entitled to vote, and had received the ballots, sent by members by mail.

The Chair appointed John F. Baker, Esq., Graemme M. Hammond, M.D., and E. H. M. Sell, M.D., as Tellers, to whom the ballots were delivered by the Assistant Secretary, and they proceeded to count the same.

Dr. J. G. Johnson, of Brooklyn, read a paper, entitled "Concussion of the Spine in Railway Injuries."

The amendments to the Constitution, recommended by the Executive Committee, were considered. Article 1, section 3, of Constitution was, on motion, unanimously amended as follows:

By striking out, from the word "such" to the word "association," both inclusive.

The second amendment was unanimously adopted as follows:

Striking out of Article 5, Section 5 of Constitution, the words, "Prior to the election of officers," and insert in lieu thereof the words, "of the current year."

Dr. M. H. Henry claimed that the Assistant Secretary had sent out his name on the election list for the office of President, and reflected on that officer.

Dr. Peet called Dr. Henry to order, claiming that his remarks were unparliamentary and improper.

The Chair sustained Dr. Peet's point of order, and held Dr. Henry's remarks were out of order, and that it was the duty of the Assistant Secretary to send out Dr. Henry's name, he being regularly in nomination and not having declined.

Dr. Henry stated that he did not wish to remain a candi-

date, and moved that all votes cast for him be counted by the tellers for Dr. W. A. Hammond.

D. C. Calvin raised a point of order, and the motion was held out of order by the Chair.

Dr. Johnson's paper was, on motion, made the special order for discussion at the January meeting, after the inaugural address of the President-elect.

The Treasurer made his annual report, showing the total receipts, \$1,207.62; total disbursements, \$1,199.71; which was ordered on file.

The report of the tellers was received, showing that Mr. Clark Bell received 68 votes; W. A. Hammond, M.D., 29 votes, and M. H. Henry, M.D., 6 votes.

The following officers were declared duly elected, as reported by the tellers:

President, Clark Bell, Esq.; 1st Vice-President, Prof. R. Ogden Doremus; 2d Vice-President, Hon. Delano C. Calvin; Secretary, Leicester P. Holme, Esq.; Corresponding Secretary, Morris Ellinger, Esq.; Chemist, Prof. Chas. A. Doremus; Treasurer, A. S. Hamersley, Jr.; Curator and Pathologist, Andrew H. Smith, M.D.; Librarian, R. S. Guernsey, Esq.; Trustees, W. G. Davies, Esq., J. C. Thomas, M.D.; Permanent Commission, Hon. George H. Yeaman, Wooster Beach, M.D.

No choice having been made for the office of Assistant Secretary, the election of that officer was, on motion, adjourned to the January meeting. The chair announced as committee on Hygiene in Public Schools of Brooklyn, on motion of Mr. Hull, the following committee: John Henry Hull, Esq., Chairman, Hon. Calvin Pratt, Dr. J. G. Johnson, Dr. A. N. Bell, Dr. S. H. Gilbert, W. J. Mann, Esq., Dr. J. Y. Tuthill.

A letter to the President-elect was alluded to, signed by over fifty members of the Society, requesting Mr. Clark Bell to withdraw his objections; accept the presidency for another year, and consent to again serve.

Mr. Bell stated his preference not to serve, and expressed

the hope that the name of a medical gentleman, of the many able ones on the list, could be agreed upon who would be acceptable to the Society.

The meeting then adjourned.

LEICESTER HOLME, *Secretary*.

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#### THE ANNUAL BANQUET OF THE MEDICO-LEGAL SOCIETY

was held at the Hotel Brunswick, after the session, the President-Elect, Mr. Clark Bell, in the chair; and, after supper, speeches were made by Dr. Lipmann, of Philadelphia, Dr. John M. Carnochan, Judge Hyatt, of the City Court, Hon. Benj. A. Willis, Judge D. C. Calvin, Jacob F. Miller, Dr. Edward Bradley, C. G. Garrison, of Camden, N. J., Dr. Isaac Lewis Peet, Dr. E. C. Mann, Dr. J. G. Johnson, Col. James, of St. Lawrence County, Nelson Smith, Esq., Mr. Jacob Shrady, the Treasurer-Elect, Mr. A. S. Hamersley, Jr., the Assistant-Secretary-Elect, Mr. J. E. McIntyre, the retiring Secretary, Mr. G. R. Hawes, and others. The party sat late. Mr. Lincoln made several humorous recitations, and the evening was one of great enjoyment. Letters of regret were read from many members and guests who were unable to be present.

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#### THE MEDICO-LEGAL SOCIETY OF NEW YORK.

##### PRESIDENCY OF CLARK BELL, ESQ.

Regular meeting of the Medico-Legal Society, held Wednesday evening, January 9, 1884, at Mott Memorial Hall. Mr. Clark Bell presided. In the absence of the Secretary, Mr. Holme, the Assistant Secretary, Mr. Hawes, was appointed Secretary *pro tem*.

The minutes of the December meeting were read, and, on motion, duly approved.



The report of the Executive Committee was read and approved.

The following gentlemen were recommended for active membership of the Society :

William A. Wainwright, M.D., Hartford, Conn.; William J. Lewis, M.D., Hartford, Conn.; Meredith L. Jones, Esq., 120 Broadway, N. Y.; Jefferson M. Levy, Esq., 102 Broadway, N. Y.; Alexander S. Hunter, M.D., 32 East 29th street, N.Y., and Lawrence Godkin, Esq., 206 Broadway, N. Y.

And for corresponding membership :

Joseph Parrish, M.D., Burlington, N. J.; S. S. Presbrey, M.D., Taunton, Mass.; F. Winsor, M.D., Winchester, Mass.; F. W. Draper, M.D., 36 Worcester street, Boston; Henry Leffman, M.D., Philadelphia, Pa.; Augusto Tamburini, Turin, Italy; Prof. Stanford du Chaille, New Orleans, La.; Hon. George B. Bradley, Corning, N. Y.; Ely Vanderwarker, Esq., Syracuse, N. Y.; Hon. Guy H. McMaster, Bath, N. Y.; R. P. Brown, M.D., Addison, N. Y.; Prof. John J. Reese, Philadelphia, Pa.; Hon. Gunning S. Bedford, New York, and George L. Harrison, Esq., Philadelphia, Pa.

On motion, the aforesaid gentlemen were elected respectively active and corresponding members, the Secretary casting the ballot.

The resignations from the Society of Drs. Morris H. Henry, Charles S. Wood and Charles L. Leale were then received and accepted.

The President read his inaugural address, for which, on motion of Dr. A. N. Bell, the Society ordered a vote of thanks.

The President then announced that as there was no choice for Assistant Secretary at the December meeting, no one of the candidates having received a majority vote, the Society would proceed to ballot for said office, for which there were two candidates, Mr. Gilbert R. Hawes, the Assistant Secretary of 1883, and Mr. John E. McIntyre, the other candidates having withdrawn.

Mr. Hawes stated that he withdrew his name as a candi-

date in favor of Mr. McIntyre, and moved that Mr. McIntyre be declared the Assistant Secretary for the coming year, by the Secretary casting one ballot

The Society so ordered, and Mr. Hawes announced that Mr. McIntyre was the choice of the Society for Assistant Secretary for 1884.

The officers of the Society for 1884 were then installed.

Judge Calvin then made a verbal report from the Committee on Coroners, and apologized for not presenting the written report of the committee, which he had, through some inadvertency, left at home. The Judge added that he would send the written report to the Secretary before the next meeting.

Mr. John E. McIntyre then presented the report from the Committee on Experts and Expert Testimony.

On motion the report was ordered to be printed, a copy sent to each member of the Society, and that it be a subject of special discussion at the next meeting.

Then followed the debate on the paper entitled "Concussion of the Spine in Railway Injuries," which was read at the December meeting by Dr. J. G. Johnson, of Brooklyn. Dr. Johnson was permitted to read certain extracts from his paper, and also a few additional notes in explanation thereof.

On motion it was duly ordered that the paper be printed, sent to members, and brought up for discussion at the next meeting of the Society.

Dr. Edward Bradley was nominated for member of Permanent Commission, vice M. H. Henry, resigned.

Mr. D. S. Riddle then moved that the Trustees make and file their annual report in accordance with the By-Laws and Constitution of the Society, at the next meeting. It was so ordered.

The meeting then adjourned.

JOHN E. MCINTYRE, *Assistant Secretary.*

## THE MEDICO-LEGAL SOCIETY OF NEW YORK.

## PRESIDENCY OF CLARK BELL, ESQ.

The monthly meeting of the Medico-Legal Society of the City of New York was held February 13th, 1884, at Mott Memorial Hall. The President, Mr. Clark Bell, presided, and the Assistant Secretary acted as Secretary, the latter being absent.

The minutes of the January meeting were read and adopted.

The Executive Committee recommended for active membership: Francis Lovell, Esq., Michael T. Sharkey, Esq., Thomas Mackenzie, Esq., Jerome Buck, Esq., Robert M. McAdoo, M.D., Charles H. Grube, M.D., of New York City; for honorary membership, Dr. D. Hack Tuke, of London, England; and for corresponding membership: Prof. Thomas Stevenson, London, England; Prof. R. Garofalo, Naples, Italy; H. R. Storer, M.D., Newport, R. I.; Prof. John M. Packard, Philadelphia, Pa.

The candidates were duly elected.

A communication was then read from a number of physicians and lawyers who are organizing a medico-legal society in the city of Philadelphia.

A letter was read from Gen. Alexander Shaler, President of the Board of Health of the City of New York, in regard to the sanitary condition of the public schools.

Both communications were ordered on file.

The debate on the paper, "Concussion of the Spine in Railway Injuries," by J. G. Johnson, M.D., of Brooklyn, was opened by Jarvis D. Wright, M.D., of Brooklyn, and participated in by John M. Carnochan, M.D., William G. Holcombe, M.D., Hon. George H. Yeaman, Clark Bell, Esq., Hon. Jacob F. Miller, of New York City; Daniel Brown, M.D., William J. Mann, Esq., of Brooklyn; William J. Lewis, M.D., of Hartford, Conn.; and C. G. Garrison, Esq., of Camden, New Jersey. Dr. J. G. Johnson closed the debate.

Mr. J. E. McIntyre moved that the Society approve and recommend to the Legislature of New York State for action, the Bill proposed by the Committee on Experts and Expert Testimony. The motion being duly seconded, Judge Amos G. Hull moved as an amendment that the annexed bill be substituted for the Bill proposed by the Committee.

The Chair then read a communication on the subject from Dr. T. R. Buckham, of Flint, Michigan, upon the proposed Bill.

On motion of the Hon. George H. Yeaman, the debate on said motions was laid over until the March meeting of the Society.

William G. Davies, Esq., then made a few remarks on the life and character of the late Gen. O. H. Palmer. The remarks were supplemented with a few personal recollections of the deceased, from the Hon. George H. Yeaman, after which W. G. Davies, Esq., presented a memorial of the deceased.

R. J. O'Sullivan, M.D., then made a few remarks on the life and character of the late John H. Harnett, Esq. At the conclusion of his remarks the Doctor presented a memorial of the deceased.

As both of the gentlemen whose deaths were above noticed were members of the Society, the memorials were ordered on file, and to be incorporated in the minutes of the Society.

John M. Carnochan, M.D., was then elected a member of the Permanent Commission.

The resignation of Myer S. Isaacs as Trustee was accepted.

Hon. David Dudley Field and Richard B. Kimball, Esq., were nominated as candidates to fill the vacancy in the Board of Trustees occasioned by said resignation.

The meeting then adjourned.

JOHN E. MCINTYRE,  
*Assistant and Acting Secretary.*

Bill proposed by Amos G. Hull, Esq. :

SECTION 1. On the trial of all actions or indictments, and in all special proceedings, and in all contests relating to wills or codicils, it shall be competent for the court, judge, or tribunal having the matter in charge, in its discretion, on its own motion, or on motion of either party to the issue or the contention, to enter an order summoning such learned and disinterested experts as may be deemed necessary to aid the court or jury on the trial, to attend as witnesses and give testimony at the expense of the action or contention.

SECTION 2. The expenses of the attendance of such experts shall be taxed by the court making the order and entered in the judgment of the prevailing party. In criminal cases, if the defendant is unable to pay such expenses, they shall be a charge upon the county.

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PROPOSED BILL RECOMMENDED BY THE COMMITTEE ON EXPERTS  
AND EXPERT TESTIMONY.

AN ACT to provide for the designation of Medical Experts—  
and their attendance and examination as witnesses in  
certain trials and proceedings.

*The people of the State of New York represented in Senate and  
Assembly, do enact as follows :*

SECTION 1. The several Justices of the Supreme Court of the State, composing the several General Terms of said Court, shall meet at some place to be designated by the respective Presiding Justices thereof within their respective departments on the first Tuesday of July, which shall be in the year 1884—and every two years thereafter—and shall, with the advice of such medical societies or authorities as they may deem useful, designate medical experts for and residing in their Judicial Department, and distributed as equally as practicable over the same, who shall be learned



and experienced in, and possessed of special knowledge of mental diseases, and who shall have had an active practice therein of at least        years, to be denominated and known as the Medical Experts for said Department for the next two succeeding years, and until their successors shall be designated in the manner above prescribed.

SEC. 2. In the trial of all actions, special proceedings, complaints or indictments, after the designation provided for by the foregoing section shall have been made, in which a question of mental capacity or soundness shall be involved, or may arise, and in which mental experts are intended to be called and examined, the counsel for the party so intending to produce such witnesses shall state to the Court such intention, and the number desired to be produced, whereupon the Court before which said trial is to be had shall, after hearing the respective parties, determine the number of such experts to be called therein, and designate by name from the number of the experts for such Judicial Department who may be called, and on the parties depositing with the Clerk of said Court the amount of fees prescribed by the Court, to be paid to said experts by said Clerk on the direction of the Court, whereupon said experts may be procured to attend and give testimony as such upon the order of said Court, and no other mental experts shall be examined upon such trial. But the Court may, for good cause shown, enlarge the number of such witnesses, and in case the Court shall regard the testimony given thereby insufficient, or so conflicting as to render the determination of the question unsatisfactory, the Court may of its own motion call others of such Department experts as may seem necessary for the instruction of the Court. The fees of such advisory witnesses shall be fixed by the judge presiding at such trial, and the same shall become and be paid as a County charge. And the fees of such experts as shall be called and examined on the application of the parties shall be adjusted by the Clerk and inserted in the judgment in the action, according to the usual practice.

SEC. 3. In cases where hypothetical questions are intended to be propounded to such medical experts, the Judge or Justice presiding at such trial may, in his discretion, require such questions to be prepared in writing and submitted to the adverse counsel, and if they shall be unable to agree, they shall be submitted to the said Judge or Justice for his allowance before they shall be propounded; but such allowance shall be subject to the objection of either party, and their exceptions thereto duly taken.

Nothing in this Act shall prevent either party from further examining such expert witnesses, by way of cross-examinations or otherwise, according to law and practice.

The foregoing act was reported by the Committee on Expert Testimony at the January meeting of 1884, was ordered to be printed and a copy sent to each member of the society for consideration, before action upon the same by the society. The proposed bill and the amendment will be further discussed at the March meeting.

L. P. HOLME,  
*Secretary.*

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THE SOCIETY FOR PROMOTING THE WELFARE OF THE INSANE held a regular meeting, February 12, 1884, at the house of Dr. Brinkman, 219 West Twenty-third Street, New York City. The officers of this Society are: President, Amelia Wright, M.D.; Vice-Presidents—1st, Edward P. Wilder, Esq.; 2d, Alice B. Campbell, M.D.; 3d, Phœbe J. B. Wait, M.D.; 4th, Mrs. J. G. Brinkman, M.D.; Secretary, Mrs. M. Eugenia Berry; Treasurer, Mr. James G. Brinkman.

Members elected at this meeting were: Mr. John Bowne, Rev. R. Heber Newton, Juliet P. Van Evera, M.D.

A paper prepared by Miss Mary A. Brigham, of Massachusetts, was read by Dr. Phœbe J. B. Wait. Subject: "Treatment of the Insane."

A paper was read by Mrs. M. Eugenia Berry. Subject: "Medico-Legal Journal of December, 1883."

Resolutions *In Memoriam* of Wendell Phillips, Honorary Member of the Society, were passed.

Resolutions authorizing the Secretary to open correspondence with the County Medical Societies of the State, regarding the insane of their counties, were passed.

The case of Evan D. Hughes, who was recently killed in Utica Asylum, was brought before the Society by Dr. Stiles, who offered resolutions of sympathy with Hon. Mr. Haskell, member of the Assembly at Albany, in his demand for an investigation of the Utica Asylum resolutions passed

MRS. M. EUGENIA BERRY, *Secretary*.

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#### MASSACHUSETTS MEDICO-LEGAL SOCIETY.

Rooms of the Boston Medical Library Association, February 6, 1884. The meeting was called to order at 12.15 P.M., by President Presbrey.

Present—Twenty-one members.

The records of the last meeting were read and accepted.

The nomination of Medical Examiner J. M. Crocker, of Provincetown, as a regular member of this Society, was referred to the Executive Committee, with instructions to report at this meeting.

The President announced that Clark Bell, Esq., President of the New York Medico-Legal Society, had made certain propositions to the Society regarding the publication of the transactions and representation in the NEW YORK MEDICO-LEGAL JOURNAL.

On motion of Medical Examiner Pinkham, the papers were referred, without being read, to the Standing Committee, with power to act in the matter.

The Executive Committee having reported favorably upon the nomination of Medical Examiner Crocker, he was unanimously elected to regular membership.

Theodore M. Osborn, Esq., of Peabody, was unanimously elected an associate member of the Society.

Corresponding Secretary Pinkham made a partial report of the work of medical examiners, and gave his views upon methods of making returns, which elicited some discussion.

Medical Examiner Tower read an obituary notice of Medical Examiner W. M. Parker, of Milford, at the time of his death a regular member of this Society. Upon motion of Medical Examiner Tower, voted to note the fact of such reading upon the records of the Society.

Voted, upon motion of Medical Examiner Draper, that the Standing Committee be authorized to select cases from the files of the Society for publication in the *Boston Medical and Surgical Journal*.

Upon motion of Medical Examiner Tower it was voted to appoint a committee of three to consider the law of medical examiners, as to its defects and needs, with a view to changes therein, the committee to report at the next meeting of the Society. The President appointed Medical Examiners Tower, Draper and Hosmer such committee.

Medical Examiner Fish read a highly interesting and valuable paper on "External Appearances of Pistol Shot Wounds," which was received with applause by the Society, and led to considerable discussion.

Voted to adjourn.

W. H. TAYLOR, *Recording Secretary*.

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#### MEDICAL JURISPRUDENCE SOCIETY OF PHILADELPHIA.

The preliminary meeting of the Medical Jurisprudence Society of Philadelphia was held at the Hall of the College of Physicians, on Friday, January 18, 1884. Dr. Samuel D. Gross was called to the chair. A committee of three was appointed to prepare a Constitution and By-Laws.

The following persons were present in addition to the chairman: John J. Reese, M.D., W. S. W. Ruschenberger, M.D., Samuel Wagner, Esq., Charles K. Mills, M.D., Frank Woodbury, M.D., Hampton L. Carson, Esq., John H. Packard,

M.D., A. H. Smith, M.D., F. P. Pritchard, Esq., Henry Leffmann, M.D.

Letters were read from H. S. Hagert, Esq., Dr. J. B. Roberts and George W. Biddle, Esq., regretting inability to be present.

About forty persons connected with the medical and legal professions have already accepted membership, and it is expected that this list will be materially increased at the next meeting, which, pursuant to the adjournment, will be held on Tuesday, February 19. At this meeting the organization will be completed, and the Society put in active operation. It will meet monthly, from October to May, inclusive.

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THE second annual meeting of the NATIONAL ASSOCIATION FOR THE PROTECTION OF THE INSANE AND THE PREVENTION OF INSANITY was held in Philadelphia, on January 22, when the following officers were elected for the ensuing year :

*President*.—Dr. Joseph Parrish, of Burlington, N. J.

*Vice-Presidents*.—Clark Bell, Esq., New York; Rev. J. W. Chadwick, Brooklyn, N. Y.; Walter Channing, M.D., Boston, Mass.; Miss A. A. Chevalier, Boston, Mass.; T. D. Crothers, M.D., Hartford, Conn.; T. L. Gerhardt, M.D., Harrisburgh, Pa.; W. W. Godding, M.D., Washington, D. C.; Emma J. C. Hall, M.D., Adrian, Mich.; W. W. Hester, M.D., Anna, Ill.; Henry Hitchcock, M.D., St. Louis, Mo.; A. H. Halberstadt, Esq., Pottsville, Pa.; Mary Putnam Jacobi, M.D., New York; H. W. Lord, Esq., Detroit, Mich.; Thos. G. Morton, M.D., Philadelphia, Pa.; W. B. Uhlrich, M.D., Chester, Pa.

*Secretary and Treasurer*.—J. C. Shaw, M.D., 177 Schermerhorn, St., Brooklyn, N. Y.

*Editor*.—Dr. Joseph Parrish.

*Executive Committee*.—Dr. Parrish, Dr. Dana, Dr. Edward C. Seguin, of New York; Dr. J. C. Shaw, of Brooklyn; Dr. Alice Bennett, of Norristown; Dr. W. B. Atkinson and General John F. Hartranft, of Philadelphia



## THE MEDICO-PSYCHOLOGICAL ASSOCIATION.

The quarterly meeting of the Medico-Psychological Association was held at Bethlem Hospital, on Friday, May 18th, at 5 P.M. Dr. D. Hack Tuke presided, and there were also present: Drs. A. J. Alliot, D. Bower, T. J. Compton, W. Clement Daniel, Bonville Fox, S. Forrest, J. Fenton, G. G. Gardiner, W. R. Huggard, O. Jepson, W. J. Mickle, F. Needham, H. H. Newington, W. Orange, J. H. Paul, W. H. Platt, H. Rayner, W. H. Roots, G. H. Savage, H. Sutherland, H. M. Sutherland, D. G. Thomson, C. M. Tuke, E. S. Willett, etc.

The following gentlemen were elected members of the Association, viz.: J. Wigglesworth, M.D., London, of the Rainhill Asylum; W. H. Macfarlane, M.B., Medical Superintendent of the New Norfolk Asylum, Tasmania; Robert Blair, M.D., Woodilee Asylum.

Dr. Sutherland read a paper "On Prognosis in Cases of Refusal of Food."

Dr. Hack Tuke, in inviting discussion upon the paper, remarked that although the main subject was the prognosis in cases of refusal of food, yet the other points to which Dr. Sutherland had referred—the mode of administration, the cases in which it should be given, etc.—were points upon which practical men present ought to be able to give most useful hints.

Dr. Gardiner said that the refusal of food might be from two causes—from excessive obstinacy, or from some disordered condition of the stomach itself. Of course, in the first case it was absolutely necessary that the patient should be fed till he became better, and the obstinacy was overcome. As regards a disordered condition of the stomach, all nervous cases suffered more or less from dyspepsia, which sometimes arose from the injudicious use of alkalies. In certain cases the administration of alkalies was absolutely necessary, and they had all experienced the value of alkalies; but they must be always conscious of the fact that in cases of low nerve power, the administration of alkalies would tend still further to lower the vitality. At the same time they could not do without them. In the treatment of feeding cases, he made it a great point to determine whether there was flatulency in the stomach. They could not always tell by touching the stomach, but there was an appearance which at once determined the presence of flatus, viz.: a distension of the stomach; they would notice a kind of pyriform distension arising from the ensiform cartilage, and extending three or four inches down. It was the object of every one to avoid feeding cases. He had often contented himself with the passing of a tube down, for the passing of the tube was frequently followed by a large expulsion of wind, quite enough to blow out a candle. That was plain proof that the stomach was pre-occupied—that it was so distended with flatulency that the patient had lost all desire; or even if he had the desire, his repugnance to increasing his pain would be so great that he would refuse food on that account. He would, therefore, strongly urge the passing of a tube three times a day, and encouraging the patient to take simple food, such as milk. And here he

might say that he was in the habit of preparing his milk by suspending in it a lump of suet the size of an egg, in a piece of muslin, and boiling it for ten minutes, which made the milk richer and more sustaining than milk alone; besides which the greasy nature of the milk would be more grateful. He had, in cases of acute dyspepsia, given milk of this kind with great benefit. But, having ascertained that the intestines and the stomach were loaded with flatus, what course was to be adopted? Of course, there was extract of belladonna, small doses of aloes or aloin, etc. They had to increase the peristaltic action of the intestine by which the flatus might be discharged. The various mineral waters might be given with very great advantage, but they were too strong—too gross a remedy—to be given in delicate cases. He had found a single teaspoonful of carbonate of magnesia, given in a tumbler of warm water, to do much good.

Dr. H. H. Newington said that he had found the sex to be the greatest aid to the prognosis. Many more incurable cases arose in the male than in the female. It would seem that when a man did take to refusing his food he did it with some object, whereas a woman would do it with no object at all—perhaps simply hysterically—and often after a time would give in. As regards the administration of food, people were too prone to administer the old round of beef tea, egg and milk, etc., leaving out lime juice and other things.

Dr. Rayner considered that they ought to pay due attention to the mental condition as well as to the mere physical state. They should endeavor, for instance, to find out whether a man refused food simply in obedience to an hallucination—as the result of an hallucination of taste—or whether he had some illusion dependent upon the physical condition of his stomach—or whether it was simply an abeyance of appetite as in melancholia—whether it had been from actual anæsthesia of the nerves of the stomach—or whether it was the refusal from hysteria or from senile causes. All those considerations appeared to be of as much importance in forming prognosis as the physical conditions which had been dwelt upon. In regard to Dr. Sutherland's point as to the loss of flesh, he (Dr. Rayner) had had several cases which had become emaciated to the last extremity, and yet recovered. He remembered a woman at Bethlem who had been fed with the stomach pump for three years, and who for eighteen months of the time had certainly been a mere walking skeleton, and yet she recovered. Then, again, where Dr. Sutherland had contended that the prognosis was bad when the patients gained flesh under the treatment, he could certainly call to mind cases of this kind which had recovered completely. Of course, as regards those slight cases which give up their refusal after they have been fed once, there could be no doubt that the prognosis would be good, and that their refusal was not founded upon a very firm basis. Dr. Newington's suggestion that the refusal of men was more stubborn than that of women was certainly borne out by his own experience. When he went from Bethlem to Hanwell he could not help being struck by the difference in regard to the food-refusal cases amongst the pauper insane, as compared with what he had been

accustomed to at Bethlem. This difference was very striking, and he had no doubt that it was due to some extent to the degree of education—the more educated brain—when it did have a delusion—adhering to the delusion more firmly. With reference to the treatment of cases of refusal of food, he had a very strong feeling that rest in bed was one of the most potent elements of success in the early stages. He did not mean to say that if a patient had been refusing food for a long time, and had established a thorough habit, that this would have much effect; but in ordinary cases rest had a most important influence. He always took it that mere refusal of food indicated rest; and he had found the remedy so successful that he had been to a great extent able to do without the stomach pump.

Dr. Hack Tuke: How do you treat patients with acute excitement where you cannot possibly get them to rest in bed?

Dr. Rayner: In such cases we get the nearest approach to rest by absence of light and sound, and the use of a padded room.

Dr. Savage said that to give a prognosis from one symptom was scarcely a scientific way of doing. In the case of a patient refusing food simply because he was suffering from phthisis—if the refusal were associated with some morbid feeling associated with phthisis, the prognosis would have nothing to do with the refusal to take food. Taking, too, what he called “aldermanic” cases with “herring-gutted,” he should not like to say that one class of case was more curable than the other. The point of giving alkalies was noteworthy. There were a great many cases who refused to be fed because they could not, or would not, retain their food. No sooner was it passed into the stomach than it was returned. Immediately the operator passed the tube he received in his face the vilest smells. Their old attendants said, “You can never do any good with that case. You should have smelt what came out of their inside. They are rotten inside.” He would be inclined in such cases to try some antiseptic, washing out the stomach first. In cases of prolonged feeding, he thought that many of the hysterical cases, having been got up to a certain weight, ought to be told that they would not be fed. Certainly, good sometimes resulted from refusing to feed. There was a mathematical master, a patient at Bethlem, who had got to like being fed, and actually used at last to mix up his own food; till one day, when the patient had got everything ready, Dr. Savage told him he should not be fed any longer, and that he would have to wait until he could feed himself. The patient only waited twenty-four hours. A great many patients were fed too long. At Bethlem they made a point of varying the feeding as much as possible, feeding sometimes by the nose, sometimes by the bowel, sometimes by the spoon, and then neglecting them for a time. He was sure that the insane were very plastic, and got readily into habits. They would be very glad, as far as the *Journal* was concerned, to have cases in which organic diseases had been found as the cause of the refusal to take food. They rarely got such cases. Perhaps once a year one would get a case in which they might think they could trace the cause. He had only once seen cancerous disease in this connection. He had seen ulceration of the duode-

num associated with gall stone. It would be extremely important to get a well-marked case in which organic disease, such as cancer, was the cause. He would also like to know whether any one there had tried the artificial foods - say peptonized foods.

Dr. Mickle said that the conclusions Dr. Sutherland had drawn would be borne out by the experience of the majority of those present. There was one point in the paper which he had particularly noticed. He had understood Dr. Sutherland to say that the prognosis was bad if the patient increased in weight. He must say that that was not in accordance with his own particular experience. He remembered one case in which a patient refused food, and had to be fed. In three weeks the patient had gained eleven pounds in weight (and in all these cases it was very important to frequently weigh the patients). He (Dr. Mickle) said, "I shall go on feeding you till you are so fat you cannot move." The patient immediately ceased refusing his food, and got on well. There was many a general paralytic who refused his food, but ceased to do so immediately after a good aperient injection. The condition of functional or of organic disease of the intestines or stomach was one that was not at all uncommonly present, whether in cases of general paralysis or in other cases. He had met with several cases in which organic disease existed. This brought them to a fresh point, viz., that in those cases where there was such functional or organic disease, there was no use in putting a large quantity of food into the stomach and expecting the damaged and diseased organs to do the usual amount of work. The food should, in those cases, be extremely digestible. It should be varied. Potatoes and lemon juice ought to be added to it. In his own practice he was accustomed in all cases, where there was such functional or organic disease, to peptonize part of the food by the method of Dr. Roberts, of Manchester; not peptonizing all the food, but giving partly peptonized and partly unpeptonized, thus giving the organs some work to do, and also affording to the blood vessels and lacteals a sufficient supply of nourishment.

Dr. Hack Tuke asked Dr. Mickle what form he was specially referring to in the case of organic disease.

Dr. Mickle replied that he referred more especially to ulcerated and inflammatory conditions.

Dr. B. Fox said he should like to know whether Dr. Sutherland had any experience in regard to the presence of diarrhoea. As respects organic disease of the stomach causing positive refusal of food, he supposed that the statement might be almost received that nearly every lunatic was dyspeptic, which condition might in one case cause mere disinclination to the food, and in another case absolute determination to resist all food at all, therefore it was a good thing if they could adopt any plan by which this could be rectified. He had occasionally seen instances in which it had been done. Sometimes the condition had been one of chronic dyspepsia, in which the acids and nux vomica had done good. As regards Dr. Sutherland's very interesting propositions he should like to know whether his cases were



quoted as instances, or were they the cases on which his propositions were founded? He thought that the increase in weight was not an ominous sign, but rather the contrary. Surely it was an indication that absorption was taking place. He presumed Dr. Sutherland meant superabundant gain; the extraordinary amount of fat that certainly did become accumulated. He would like to ask Dr. Sutherland if he would not modify his statement that mere gain of weight was bad.

Dr. Huggard quoted a case which had an important bearing upon the subject under discussion, though it was of even greater interest from various other points of view. A lady between 40 and 50 years of age had an attack of melancholia, accompanied with cataleptic tendency. She refused her food from the belief that it was poisoned, and on several occasions it was necessary to use the stomach pump. At this time the speaker, impressed with Dr. Hack Tuke's paper on hypnotism, and Tamburini and Seppilli's experiments on the same subject, had recourse to this agent. The dangling of a bunch of keys for a few minutes before the patient's eyes brought on the hypnotic sleep. While in this state any idea suggested was believed, and commands were obeyed. She was ordered to eat, and she ate. She was ordered to drink, and she drank. She was ordered to go through various quick movements, and she did so. She was told that she was the happiest mortal in the world, and was desired to laugh. Her face lighted up; an unaccustomed smile came upon her lips; the croaking noise of unwonted and almost forgotten laughter was heard, which soon, however, with practice, softened into more natural sounds. Hypnotism was employed, off and on, for a week, and was then discontinued, lest a habit should be formed. But during the employment of this measure marked improvement was observed, which had since continued, and now the lady was convalescent. In this case a new device was adopted to compel the ingestion of food. But more than this, an opportunity was afforded of reaching and exciting to action long disused nervous channels. Dr. Savage had asked a question as to the use of artificial foods. He (Dr. Huggard) had seen an account given of peptonized foods by an Italian observer. That gentleman found them very valuable for forced feeding, but expensive.

Dr. Mickle said there was no exceptional expense in peptonized food. It could be obtained at very little expense. It only cost a few shillings beyond the cost of the food. A few shillings' worth of the material would last a good many days.

Dr. Hack Tuke said that there was an article in the *Journal* several years ago on Nutrient Enemata, by Dr. Needham, who was present, and he should like to know whether he had still recourse to them frequently.

Dr. Needham said that he had. It was a serious business to begin feeding. In a considerable number of cases, however, the stomach was in that state that it was extremely irritable so that there was retching and ejection of the food; or the stomach was in a filthy condition, and could not possibly digest it. In such cases he thought it important to sustain the patient by nutritive enema, four ounces of strong beef tea, with a small quantity of



whisky six times a day. He had found no difficulty at all, the patient being held down, and using a short elastic tube and a four ounce enema syringe.

Dr. Hack Tuke asked Dr. Needham if he found that mode of feeding more or less easy than feeding by the mouth.

Dr. Needham said it was easier ; but of course he would use it in those cases in which there was a difficulty in feeding by the mouth, and where retching would take place which would not go off.

Dr. Hack Tuke said they had had a very interesting discussion. The remark had been made that the lunatic was frequently dyspeptic. Unfortunately dyspepsia was not confined to lunatics. In many of the cases in which there was an excess of flatus in patients, that condition might have existed before they became insane. Very likely in many sane persons if a tube were introduced into the stomach there would be considerable expulsion of wind. His own impression of Dr. Sutherland's paper was that the prognosis was too unfavorable. He could not but think that the patient who refused his food was in a rather poor way. If he lost flesh, Dr. Sutherland told them the prognosis was bad. If he gained it was also bad. So, what could the unfortunate patient do? However, the author's remarks must not be taken too literally. He quite agreed with Dr. Savage that they should not be guided, as regards prognosis, by one symptom only. He would now call upon Dr. Sutherland to reply.

Dr. Sutherland said that, first with regard to Dr. Gardiner's remarks, it was quite true that refusal of food did very often arise from physical causes, but they must not go to physical causes only. They must also take into consideration the mental causes of the refusal of food before they determined whether they were to feed him or not. In reference to another physical point, they might say that the patient's breath was an indication. If the breath had the peculiar smell indicating that the coats of the stomach were decaying, there was no time to be lost. He himself always carefully watched them for twenty-four hours. During that period he would be guided by the condition of the pulse, and by the previous history of the patient. Dr. Newington had suggested that they were not to feed by routine. He thought that a very powerful man might be shamed by constantly feeding by the rectum. He would, however, like to recommend pearl barley as being a good thing, through the nasal tube. It dissolved in the hot beef tea, and in that way they might get a good food. Dr. Rayner had told them that they ought to ascertain the cause. He did not think that he could be accused of not having ascertained the cause, as would appear from his investigation of the case where there was the obstruction, but it was quite impossible in a paper like the present to take every point. As regards Dr. Rayner's case of emaciation which recovered, that, he thought, must have been an exceptional one. Several speakers had remarked upon his point that if a patient gained flesh it was unfavorable but it was only so with regard to the patient's recovery of mental power. Of course a fat patient was much more likely to live long than a thin one. As regards Dr. Savage's

rather severe criticism with respect to his (Dr. Sutherland's) taking the refusal of food as the one symptom only, he wished to say that he took refusal of food as the subject of his paper, because he wanted to find out by prognosis whether such and such a course of treatment was warranted or not. Of course, taken by itself, it was insufficient; but he thought it was a good sort of peg or standpoint on which to found his remarks. Dr. Savage and others must remember that private asylum proprietors were placed at a very great disadvantage with regard to statistics. They had not so many patients to try their experiments on, and they had cases of a different class to deal with. He would not say that one life was more valuable than another, but it was quite certain that if a patient died in a private asylum there was a great deal more said about it than in a public asylum. Dr. Savage had spoken of a man who seemed rather to like being fed and wished to be fed. He himself had a lady patient whom he had to feed with the mouth tube, and she liked it very much. On the second occasion he attempted feeding with the nasal tube, but it did not succeed. He passed it down, but could not get it to the stomach. However, it had such a good effect upon the patient that she recovered. He quite agreed with Dr. Savage as to varying the feeding. As to Dr. Needham's remarks, undoubtedly injection by the rectum sometimes had a good moral effect. With regard to Dr. Fox's cases of diarrhoea complicated by food refusal, he had himself had such a case—a lady whom he had to feed artificially, but she died. He had used sulphate of copper pills, a very good remedy. Dr. Fox had asked him whether the propositions were taken from the cases or the cases from the propositions. He might say that the propositions were taken from the cases, but they were typical cases. As regards Dr. Huggard's statements, he had a hysterical case at the present time. Dr. Needham had said—Do not feed too soon. He quite agreed with that. As to violent cases, that was a most difficult point. The most violent case he had had was that of a general paralytic, complicated with phthisis. He could not feed him by the nose. He tried by the rectum, but the attendant got it in his face. Then Dr. Hack Tuke made some remarks agreeing with those of some other speakers, that was to say, with regard to his founding a paper upon one symptom. His object in so doing was to find out, if he possibly could, some indication for feeding, although, as he had said before, it was impossible to take one point like refusal of food as either indication for treatment or prognosis. However, he hoped, if only from the discussion which had been elicited, that they had had some fresh light upon the subject.

Dr. Hack Tuke having expressed the thanks of the meeting to Dr. Sutherland for his interesting paper, informed the members present that arrangements had been made for their dining together at eight o'clock. He suggested that it would be desirable that an opinion should be elicited as to the best time of the day for having their quarterly meetings. Probably those who were present would be more likely to give an opinion next time, but if there was any gentleman present who thought there had been an error made in fixing five o'clock as the time of meeting, and who wished to

propose any other time, he hoped he would do so. No member responding, the meeting adjourned, Dr Tuke remarking that the present occasion would be regarded as an experiment.

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A quarterly meeting of the Medico-Psychological Association was held in the Hall of the Faculty of Physicians and Surgeons, Glasgow, on Wednesday, April 18th. There were present Drs. W. W. Ireland (Chairman), Clouston, Yellowlees, Wallace (Greenock), Alexander Robertson, Carlyle Johnstone, Clark, Rutherford

Dr. Clouston read a paper on "Senile Insanity."

Dr. Ireland said that it was needless to take up time in praising the paper which had just been read. They all thought very highly of Dr. Clouston, and this would add to his reputation. He had derived much instruction from the paper; but as their time was short enough for their programme, he would only refer to a few points which seemed to him to have been passed over. He had not Dr. Clouston's opportunities for studying senile insanity, but like him he took a kind of pathological interest in such forms of senile derangement as were met with in the world. He wondered that there was no reference to the moral degeneration of old age. It was long before he noticed this himself, having been in early youth prepossessed in favor of senility by reading a paradox called "Cicero de Senectute." What first opened his eyes was a passage where Sir James Paget, in his Hunterian Oration, spoke of "those forms of senile degeneration in morality against which all men growing old need to guard." None of us liked to go, and we could not stay here without becoming old, and so he had an uneasy feeling that he might pass into that mental stage which would render one liable to having papers written upon him, but he would not suppress his conviction that Paget here spoke the truth. There was a saying "that the good die young." However this might be, the verse of Burns sometimes occurred to him—

O! why has worth so short a date,  
When villains ripen grey with time?

Before that, he had been much perplexed by the behavior of some old men, but after reading the passage quoted, the truth dawned upon him. They all knew that there were many good old men, but as years went by there were hardening and demoralizing tendencies which made some worse in old age than they were in youth and middle life, and which might culminate in insanity. He thought senile derangement was often accompanied with well marked changes in the handwriting, and he had collected and compared specimens of this kind of degeneration in the writing during several years. Dr. Clouston had referred to some races who aged rapidly; among these he would place the Ceylonese and the Bengalis.

Dr. Robertson: I think the whole paper very instructive and valuable. Dr. Clouston has brought out by his statistics, very forcibly, the striking fact that senile insanity is by no means so incurable as is by many supposed.

The recoveries were under 75 years of age, but there were cases even above that age. This corresponds with my own observation. While he spoke I was reminded of a case of mania which occurred last year in a man of 76; he was sent to Greenock Asylum and brought back recovered after six weeks. He is now in a state of ordinary senility, and is an inmate of the poorhouse. In reference to the opinion that the occasional appearance of increased misery in certain aged melancholiacs was indicative simply of organic uneasiness or pain, and did not show there was a corresponding mental state, I would venture to express a doubt, especially as a tendency to suicide was stated to have been manifested. It could not be easily established that there was not an actual increase of mental suffering in these cases, while the paroxysm lasted, though it seemed to have been of short duration.

Dr Yellowlees: I have always felt interested in this type of insanity, as it is one of those forms which can be definitely separated from the mass. Evidently the vascular changes and the insufficient nourishment are the essence of it. The recurrence of the attacks is specially interesting. I have under my care, at present, a lady over 70, whose friends, by my advice, tried to manage her at home, but utterly failed. She is extremely restless, refuses food, has delusions of poisoning, and requires to be fed by the tube four times a day. She has been twice insane since she was 60, and recovered on both occasions. This makes the prognosis more hopeful in the present attack. [This patient, we learn, recovered perfectly within a month.] Recovery in senile insanity is interesting from the statistical side. I take a different view from Dr. Clouston of what constitutes recovery. I must be able to certify patients sane before I class them as recovered. Normal senility is surely different from normal mental health. The articulation in some forms of senile insanity resembles that of general paralysis. The bone compensation for brain-atrophy is unquestionable and very interesting.

Dr. Alex. Robertson read a paper, "Recovery from insanity of seven years' standing; treatment by electricity."

Dr. Ireland was glad to listen to a paper on therapeutics, which he regretted was a rare thing at their meetings. It seemed most disappointing to think that so little new was done in this direction, when they knew that the brain was readily acted on by drugs, and that through the application of cold and heat as well as electricity they could so readily influence the circulation within the cranium. He remembered at a former meeting of the Association, held in the same room, hearing the results of Dr. Robertson's experience in the use of cold and hot applications in nervous diseases. It had been proved by experiment that we could, by passing the continued current through the brain, cause contraction of the capillaries, and with a greater strength cause their dilatation. He thought that this was owing to the direct action of galvanism upon the brain, though it was possible that by acting upon the sympathetic nerves we could influence the cerebral arteries. He had himself entertained great hopes of electricity as a therapeutic agent in insanity, and had made some experiments both in imbecility and insanity. He would have published his experiments, but they were in-



complete, and he never succeeded in achieving a success like that of Dr. Robertson.

Dr. Clouston said that his experience of the therapeutical value of electricity had not been great. Dr. Inyasevsky, a Russian, medical officer of the asylum at Kazan, in Eastern Russia, was recently at Morningside, and spoke of his experiments. He had an apparatus for measuring the current. He found that the weaker currents were most effective, and rarely used above five cells. He had the greatest faith in the efficacy of this treatment, particularly in its stimulating influence in cases of melancholia and stupor, as the result of his extensive experience.

Dr. Robertson, in reply, said that he did not attempt to theorize on the action of the current, whether that were through the sympathetic on the vessels, or directly on the tissue of the brain. He did not try to estimate the amount of the electricity; this is tedious and difficult to do correctly. He simply increased the strength of the current till the patient felt it unpleasant, her feelings being his guide. He found that in the early stage of treatment a current from 15 to 20 cells could be borne, but latterly one of ten cells was sufficient.

Dr. Campbell Clark read "Notes (a) of a case of insanity following alcoholic excess and lead poisoning, (2) of three cases of phthisical insanity."

Dr. Robertson said: In reference to the first case I doubt if we can distinctly attribute the mental symptoms to the presence of lead in the system. There was no doubt a blue line on the gums. Perhaps the slight ptosis may have been caused by the poisonous action of the lead, but even that, as well as the mental symptoms, may have been due to alcohol, for it was stated that the patient had been of dissipated habits for years. Still possibly the lead may have had something to do with the causation. In reference to the second group of cases, it seemed to him that the cases submitted by Dr. Clark did not correspond very closely with Dr. Clouston's description of the symptoms. He understood that to be a state of depression, with delusions of suspicion and occasional outbursts of irritability, but in Dr. Clark's cases there was sometimes exaltation with grandiose delusions, similar to those of general paralysis, and this was unlike what Dr. Clouston had described. About this phthisical mania he felt still in a state of uncertainty. He had certainly met with cases which quite corresponded with Dr. Clouston's description, as he understood it, associated with chronic phthisis, but he had met with other mental disorders, and particularly acute mania along with that condition, so that he did not feel sure that phthisical insanity could be regarded as a definite form of mental disease.

Dr. Clouston considered Dr. Clark's three cases to be good examples of what he had described as phthisical insanity in 1863. He had observed the exaltation described by Dr. Clark in some cases. There were the suspicion, the outbursts of irritability, unsociability, dementia, and the pathological condition—brain anæmia. It is essentially a brain anæmia, with a reflex disturbance of constitutional function from the diseased lungs.

Dr. Yellowlees: The term phthisical insanity has been much misapplied



and greatly misunderstood. It must not be confounded with ordinary insanity with phthisis. I have always restricted the term to a certain class of cases in which the mental symptoms seem to be originated by the lung disease and to vary with its progress. Such patients are whimsical, wayward, uncertain, irritable, unsocial, suspicious, and liable to impulsive out-breaks. Brain irritation, rather than brain anæmia, I think the pathological condition.

Dr. Carlyle Johnstone read a paper, "Cases of Exophthalmic Goitre," and exhibited some interesting pathological specimens.

The members afterwards dined together at the Grand Hotel.

*(Journal of Mental Science.)*

## EDITORIAL.

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LEGISLATION ON INSANITY.—The most important recent contribution to the pending issues connected with lunacy reform in the American States, and especially the State of New York, is the work compiled by George L. Harrison, late President of the Board of Public Charities of Pennsylvania, and a member of the Commission named by Governor Hoyt of that State to examine the Lunacy Laws of the American States and foreign countries, and recommend needed changes in the statutes of Pennsylvania.

The labors of that Commission, as is well known, resulted in the passage of the present law of Pennsylvania, which has just gone into effect. The volume compiled by Mr. Harrison gives the laws of most of the American States and Territories, with copious abstracts from the laws of England, Canada, France, Belgium, Germany and Russia.

The preface to this interesting and important volume deserves to be reprinted in this journal. We greatly regret that our want of space prevents its reproduction. It is probably one of the strongest arguments in favor of the needed amendments in the Lunacy Statutes of our State that has been presented.

We quote a few of the instances cited by Mr. Harrison that came under his personal knowledge and observation :

“At a meeting of the directors of a large charity, it was announced that the physicians of the institution were prepared to sign a certificate of insanity, after several weeks’ attendance, for the admission of a beneficiary to a hospital for the insane. This would have been allowed, as a matter of course, but that a special committee was asked for and appointed.

The case was indeed a pitiable one, and likely to mislead even a professional man of ordinary experience. Suggestions were made by one of the committee, which were accepted by the doctors; the plan was carefully pursued, abnormal symptoms gradually disappeared, and after two or three months the young man regained his composure, and returned to his home, and has since continued to live with his family and work for a living. It was simply an instance of overtaking the bodily strength by long and unintermitted labor.

"A gentleman of intelligence, who had many friends, was separated from his wife and resided at a distance from his family. He undertook to revisit former scenes, and was observed by his wife's relations. One of these, a physician, accosted him, invited him to his office, and an interview of a few minutes took place. Shortly afterwards, as he resumed his walk along the country road, a carriage drew up, and two sturdy men alighted, seized him, forced him into the carriage, and conveyed him to a hospital for the insane, with a certificate of commitment, signed by two physicians, whose respectability was vouched for by a magistrate, as the law required. This gentleman was not 'examined' by the hospital physician. He was immured with the insane; and detained in entire conformity with the law, as it then existed. His friends were astonished at his sudden disappearance, but his home was a hotel, and he had no intimate companions there. After about a month's detention, he found an opportunity of stealthily communicating his position to his friends. They hurried to the hospital, and he was surrendered at once; the doctor taking occasion, *then*, to examine the case."

"An instance of the commitment of a sane person to a hospital for the insane occurred so recently in this neighborhood that it will be fresh in the minds of all who care for these things.

"A man in the respectable walks of life, but who was not an agreeable member of his family, received unexpectedly a formal visit from the family physician. Shortly after this interview, he was unceremoniously carried off to an asylum for

the insane, on a certificate signed by his doctor and a medical friend. He happily had a son, however, who missed his father, sought him out, and delivered him from durance. The two physicians who committed him to this undeserved incarceration, were called to account for their act—an act worse than a felony; but the judge found no legal cause for punishment, and discharged the doctors.”

“A person of humble origin, but of considerable means, and a partner in business with a brother, found himself, without premonition, in the hands of a ‘committee’ appointed by the court to take charge of his person and his property. He was hurried to a distant city and placed in a ‘retreat’ for the insane. He had friends, but none knew where he was; and many months dragged on before any ray of hope illumined his prospects. At length he induced his guardian to remove him to a hospital near his old home, as it was supposed his case had ceased to receive attention. But he found opportunity to make known his whereabouts, and soon a writ of habeas corpus brought him before the court.

“The court appointed a master on his case. Many friends, and several physicians and lawyers, saw him before the examination of witnesses, of whom a score or more testified to his sanity at the time of his immurement and at the present time. The medical superintendent’s testimony was trivial to absurdity, the two main points being that he walked constantly through the corridors and talked continually of himself. The master reported to the court that he had never heard a clearer statement of a case than the plaintiff made; that he was remarkable for his sound intelligence, etc.; and the court discharged him. It took nine months to go through this ordeal and obtain his invaded liberty—most unrighteously invaded.”

“These cases are within the personal knowledge of the writer, and others might be cited of equal or even greater injustice.

“Instances of neglect, even of barbarity which led to death, are known to all familiar with the treatment of the insane,

who are sometimes furnished with unfeeling attendants, hired at cheap rates, which only the most unsuitable would accept. I have before me a score of cases occurring within a few years, taken by my direction, from the dockets of our own courts and those of New York, which furnish examples of such sad experiences as I have mentioned. They are cases which have been carefully investigated by court and jury, sometimes consisting of as many as fifteen selected men; the institutions being defended by the ablest counsel.

"There is no sensational motive in this record of the facts which have occurred in the institution for this class. They may not have occurred in all, but a liability to them exists everywhere from the system generally in force; which, by its exclusiveness, separates the public from all interposition in behalf of these wards of the State, except by confronting difficulties, delays and discouragements which few are willing to encounter. And thus, the hardships which menace all who are disposed to befriend the injured, the entire ignoring of all testimony from the patients themselves, the majority of whom are quite reliable in the statement of a matter of fact, the inexorable demand of the hospital officials for the sole consideration of all questions relating to the condition of their helpless patients, which has been most unwisely conceded by communities, too willing to be relieved of expense and troublesome responsibility; these are the sources and occasions of the peculiar and manifold misfortunes of the insane—misfortunes which are not suffered by any other class of the dependents of the State, and which would not be suffered by this most interesting and afflicted class, if the barriers, which I have suggested, were removed.

"Perhaps the sentiment of the public, which I have mentioned, has prevented others from making so distinct a relation of the unhappy condition of the insane, as I have endeavored to indicate, the public mind not being well prepared to believe it. Perhaps the public are misled by partial knowledge, or knowledge only of some select retreat for well-to-do boarders. There have been, however, of late years, in



this and other States, some revelations of the wrongs and the exposure to wrongs which they suffer. These have been developed in the efforts to effect an amelioration by judicious, conservative legal enactments, which should give full consideration to the officials of the institutions, and, at the same time, adequately protect the rights which justice and humanity demand for their inmates. These patients have been entrusted to those officials for that care and treatment which would best relieve them of suffering, and so, best lead to the improvement or restoration of their health. The hospital is established for the patients and not for the officials, professional or lay.

“The good influence of such legislation has been manifest in several States. The officers of the hospitals at first uniformly opposed it. Yet it has happened that, not only have their patients been greatly relieved, and improper admissions hindered, but the good results have given satisfaction to these officials themselves. They feel protected against an unjust public reproach and indignation, while the protective legislation exists, and is carefully administered by the authority to which such duty has been confided.”

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“It is the poor and friendless insane that are properly the wards of the State; and the State is required by every principle of common humanity—by a regard for its own reputation as a civilized community, and by the simplest considerations of sound policy, to make due provision for their safe keeping, care and treatment, that so their grievous and disabling malady may, if possible, be cured, and themselves restored to activity and usefulness; or, if incurable, that they may be kept under such kind restraint as the public safety requires, and enjoy such comforts as humanity demands. If cared for at all, these must be cared for at the public expense. For all these the State should provide asylums or hospitals, that none may be left to the inhuman outrage of being incarcerated with felons in prisons, or to the unutterable wretched-

ness of languishing or raving their lives away under the ignorant and unfeeling treatment of the almshouse. These hospitals or asylums should be placed under the charge of the most skillful superintendents, to be men not only of the most thorough medical training as specialists, *but of the best common sense and administrative ability, of humane instincts and of large and ripe experience.* The hopelessly incurable may better be provided for in an entirely separate establishment under simpler and cheaper arrangements.

"For the *quasi-criminal* class there would seem to be no need of any special establishment. Why should they not be distributed to their appropriate places in the ordinary asylum or hospital? I think there is no sufficient reason to exclude them. Perhaps for patients of this class, who, after treatment for a longer or shorter period, recover their soundness of mind, some special legal provision needs to be made.

"For insane convicts, the properly *criminal* class, the State might provide either an entirely separate establishment or a separate department attached to the ordinary hospital, as economy and convenience should dictate. But no man acknowledged to be really insane should be kept in prison or in any department of a prison, especially after his prescribed term of imprisonment has expired. This was no part of his sentence. The State, having deprived him of his self-control, and become his absolute master and guardian, may not leave him in bodily sickness, to languish and die without the use of the proper medical remedies, and what is a necessary adjunct—proper care and nursing. Neither may she leave him to rave or mope himself into incurable madness or idiocy for the want of the treatment which the best medical skill and other alleviating provision could furnish, and which cannot be had in the cells or purlieus of a prison.

"There remains another important branch of the subject to which the attention must now be turned, namely, the general supervision of all the institutions and hospitals for the insane, and of the processes of committing persons to their

charge, and of determining when their detention should cease.

“It is not enough to have good laws, and wise and generous provisions. As much depends upon their faithful and judicious administration as upon the laws themselves. The gentlemen of the medical profession deserve the highest credit and the meed of lasting gratitude for their share in the modern reformation of the treatment of the insane, and in the amelioration of their condition by means of well appointed public asylums and hospitals. But they have sometimes shown quite too much sensitiveness at any suggestion of having their own administration submitted to supervision, especially on the part of laymen. But no man and no class of men can safely be entrusted with absolute and irresponsible control of their fellow men for an indefinite length of time ; and experience has often shown the sad effect of such want of responsibility upon the character of excellent men in charge both of public and private institutions for the care of the weak and helpless. Besides, there is need of constant watchfulness against the negligence, the recklessness, the self-will, the cruelties, the abuse of their immediate power, their “little brief authority,” on the part of the subordinates and attendants in such institutions. And as for supervision, any board or commission for the visitation of such institutions should be constituted chiefly of laymen. On considering the disagreement of a commission of “experts” recently appointed by the Governor of this State to determine the mental condition of a convict, with a view to commute his sentence if insane, an eminent physician said, that in all such cases the commission should be composed of laymen, with the exception of one able physician, who could advise as to the question whether the person to be examined was afflicted with a bodily malady, which might induce insanity. His impression was clear that intelligent, conscientious business men, who had constant dealings with men, and whose judgment would necessarily be more clear as to the mental

balance of a man, should be preferred to physicians, whose profession gave them comparatively but little opportunity of testing actually or by comparison a person's *mental* soundness. Professional *esprit du corps*, too, needs to be guarded against; and laymen, while more surely impartial, are in fact not less competent judges than medical men of most matters to be submitted to official examination and inspection. This is indicated in the English as well as certain American laws.

"The insane in hospitals exist in such unmitigated seclusion that the eyes of the community never rest upon them to any appreciable extent. They receive little or no recognition from the public, who may be quick to extend their sympathy and aid to the wronged and suffering of all other classes. This indifference not unfrequently extends itself even to those who are set over these unhappy beings, from the chief to the lowest attendant of the hospital. Rarely or never can injuries be so exposed as to come to the public eye, and are never considered, much less believed, upon the testimony of the suffering patient, who, in a large majority of cases, is quite capable of clearly and truthfully presenting the facts. It is unnecessary to say, for it has been recently exposed to the public in a most aggravated manner, that brutality even to the extent of causing death may obtain immunity even in a court of justice.

"Such things could not be, if the community recognized the condition of these wards of the State and appreciated their infirmity, their needs, and the measure and character of the attention and relief which they require.

"Few members of any community ever visit a hospital for the insane. Few strangers in a city make such an institution one of the objects which they desire or expect to investigate.

"If, in either case, there are exceptions, the show wards alone are open to inspection, or at most a hurried walk is made through the corridors, where the quiet patients lounge or

saunter in unvaried depression or ennui. While the hospitals of all other descriptions—the asylums for the blind, the mute, the feeble-minded, the houses of refuge, and even the prisons—are always open to the unrestrained inspection of all respectable people, this asylum for the mentally diseased is practically closed against such ‘intrusion.’ The necessity does not exist at all in the degree alleged.

“I am not ignorant of the fact that unguarded and indiscriminate visiting at all times and under all circumstances would be injurious to some of the patients, and would derange the administration of the hospitals. Such license would be mischievous anywhere, and more especially where the inmates, in large proportion, require freedom from disquieting influences. On the other hand, however, the social experiences of the inmates of almost all hospitals for the insane, are of a nature to induce insanity where it does not exist, to intensify it where it does exist, and to drag down to irremediable madness the unhappy victims of such companionship as they are consigned to, in these institutions. It becomes, therefore, all parties in authority in these institutions, in the State and in the community, to mitigate this fundamental evil, and remove as far as possible this chief hindrance to recovery or amendment, by a relaxation of the system of isolation from all companionship or familiar intercourse, outside the ranks of their fellow-sufferers and their keepers; the one always suggestive of an indefinite imprisonment, the other of unrelieved misery and distress. I speak, of course, of the general condition of a class, and not of exceptional cases.

“Not only public asylums and hospitals, but also private houses and institutions for the care of the insane need visitation and thorough inspection, both for the protection of their inmates and for the protection of the community. Care must be taken lest, through the malice of relatives or guardians, and the incompetence or collusion of (so-called) physicians, they become places for the hopeless incarceration or detention of perfectly sane and innocent persons, who, being



forced helplessly into such a condition, and surrounded by such associations, may, after no very long time, be actually reduced to a state of real and remediless insanity or idiocy. The degree of M.D., even though the prescribed course of study has been thoroughly mastered—which is far from being always the case—does not of itself qualify a man to decide upon the question of the sanity or insanity of an individual. There is no good reason why as great care should not be taken that no sane person should be incarcerated in an asylum or hospital, whether public or private, as that no innocent person should be subjected to punishment with the guilty.”

The effect of this work of Mr. Harrison cannot fail to be largely influential upon legislation in American States. France has undertaken the revision of her lunacy system, and an able commission of leading French alienists and statesmen are now considering that subject.

Members of the French commission have recently visited Great Britain for the purpose of a careful study of the English system, and a view of the practical work in English and Scotch asylums.

The recommendation of the President of the Medico-Legal Society that the Governor of this State appoint a similar commission, for a like purpose, in New York, deserves attention; and the example of Governor Hoyt in Pennsylvania will, we do not doubt, be followed by the Executives of other States.

The prominent features of complaint in the New York Statutes that require reforms are in regard to commitments and discharges, the establishment of a Board of Lunacy Commissioners, with powers analogous to the English Commissioners in Lunacy, and provisions for enforced official investigation and visitation of every insane person and of all asylums. That this is opposed by Superintendents of Asylums seems strange; but that fact alone should furnish all the stronger reasons for the speedy provision of enforced,

thorough visitation by responsible officials, who could carefully scrutinize every case at least twice in each year, if not once in every three months, as in England.

A NEW SOCIETY FOR THE CULTIVATION OF MEDICAL JURISPRUDENCE.—A meeting of a number of invited gentlemen, representing both the legal and medical professions, was held at the hall of the College of Physicians, Friday evening, January 18, 1834, for the purpose of forming a permanent organization for the study of forensic medicine. Prof. S. D. Gross was called to the chair, and announced the object of the meeting. Prof. Henry Leffmann was appointed Secretary. Among those present were W. S. W. Ruschenberger, M.D., John H. Packard, M.D., J. J. Reese, M.D., Albert H. Smith, M.D., Samuel Wagner, Esq., Charles K. Mills, M.D., L. P. Pritchett, Esq., Hampton Carson, Esq., and Frank Woodbury, M.D. It was resolved to form a society for the objects stated, and a committee was appointed to draft a constitution and by-laws. The next meeting will be held on the third Tuesday in February, when the permanent organization will be completed. About fifty members of the Philadelphia bar, and thirty physicians of prominence of this city, have already expressed their desire to join the Association.—*Phil. Med. Times.*

LUNACY LEGISLATION.—Lord Carlingford introduced the proposed Irish Lunacy Bill in the House of Lords.

THE FRENCH SENATE has named a commission to propose amendments to the Lunacy Laws of France. Dr. Duprez is named President. The commission thus formed has been taking the evidence of English, Scotch and Belgian alienists.

PUBLIC COMPLAINTS AGAINST ASYLUMS.—By JOHN B. CHAPIN, M.D., Medical Superintendent of Willard Asylum for the Insane.—The paper of Dr. Chapin, read before the annual

meeting of the Association of Superintendents of American Institutions for the Insane, at Newport, last June, published in the *American Journal of Insanity*, is a masterly effort, and will, if generally read, do much to allay public apprehension upon the subject of asylums.

While we cannot agree with all the positions assumed by Dr. Chapin, no one can question his sincerity, nor the evident good purpose underlying his paper. Dr. Chapin comments upon the disastrous effects resulting from investigations, and with great force and propriety, says :

“In the State of New York, where ample power is given to a *State Board of Charities* and to a *State Commissioner in Lunacy* to maintain an effective inspection and supervision of the asylums, and with the machinery of these two distinct bodies in actual operation, four legislative investigations have quickly succeeded each other. It may also be stated as a part of this history that no less than twenty-five insane persons have been brought before the courts of the same State by writs of *habeas corpus* during the past two years, some of whom have been discharged as sane.”

It does not seem to have occurred to Dr. Chapin that one of the great evils in New York is the want of any system of enforced proper visitation of the insane in that State.

The system adopted in England of a compulsory visitation by a Commissioner in Lunacy once in every three months to every insane person, being a personal and private inspection, does not exist.

The single State Commissioner in Lunacy in New York could not examine each case in the State in the manner directed by the English law, once in a year, if he devoted his entire time to it; and he has very little authority under the New York law. If proper visitation and inspection of asylums had existed in New York, the investigations, to which Dr. Chapin alludes, very likely, would not have been ordered.

Dr. Chapin claims, (and it is of great importance in this discussion,) “that of the various official examinations that

have been incited by some of the allegations to which allusion has been made, it may be stated that no conspiracy on the part of a medical officer of an asylum, or an examining physician, has yet been disclosed." "No sane person has been placed in an asylum for an improper purpose, or with the knowledge or belief that the person was sane."

The more important and interesting statement of Dr. Chapin upon the questions of supervision, inspection and commitment are worthy the careful attention of all citizens interested in the subject. We quote:

"We can not presume to question the right and power of the State government which creates the asylums to institute official inquiries in its own way, that it may be informed of the manner in which the laws for their administration are executed. Several of the States have created permanent Lunacy Commissions and Boards of State Charities, with ample powers to supervise, examine and make reports, and all the public asylums are managed by boards of trustees acting under State authority. No proceeding in the management or administration of these institutions has a greater corrective and conservative power than that to examine and report intelligently, independently, and fairly, upon their actual condition. In the judgment of the writer the asylums will suffer more from the omission to exercise the powers thus conferred, than from their execution in the spirit we have indicated. No objection will be interposed to the work of these boards, which promises first to enlighten the public in respect to the actual state and operations of the asylums, and, secondly, to impart moral strength with which to make advances, as well as to withstand assaults from those who seek to pull down but have not the power, the ability, or desire to reconstruct.

"The powers and duties of a Lunacy Commission and State Boards of Charities ought to be regarded by the asylums, and prove to be in fact and in practice co-operative, not antagonistic—to be welcomed rather than repelled. These

bodies where they exist should be the department of governmental supervision to which the delicate questions of policy, proper administration and its abuse, may be referred. Here it would seem there should be concentrated such wisdom, such a disposition to preserve and ingraft what is considered established by experience, such a guardianship of the best interests of the State in the administration of the asylums, that the various intricate questions of law and policy which arise might be safely intrusted to them for solution."

Dr. Chapin's reference to the attempt to pass a bill in the New York Legislature last session to provide for commitments only by or upon the verdict of a jury, we entirely concur in. We quote his words :

" Assuming the proposed jury law and the opinions of the two judges to be a fair exposition of the judicial sentiment regarding the commitment of the insane, if these views should further take the form of legislative enactment, the effect upon the interests of the insane and the asylums would be disastrous in the extreme. The asylums and hospitals would be changed from places for the medical treatment of the insane to lunatic prisons. Insane persons would be committed, or permitted to be detained only after commission of criminal acts, or when manifestly insane in the judgment of a jury, but not for medical treatment and care. The medical idea is now prominent in the administration, but it would be supplanted by some other system than the present one, and a class of officials to be known as wardens or keepers would take the places of physicians. Friends of patients shrinking from the publicity and scandal of a public trial, would retain them at home beyond the curable stage, or remove them to other States. It becomes the members of this association, of the medical profession, of all interested in one of the most obscure social problems, to be fairly warned and aroused by the disturbing and demoralizing tendencies of the day, before it is too late."

We take also great pleasure in giving Dr. Chapin's view



upon the disturbing question of commitment of the insane ; he says :

“In respect to the delicate question of the commitment of the insane which has been, and will continue to be, a disturbing one to the asylums and the public, because it is not yet satisfactorily settled, changes should be very cautiously and considerately made. The principal source of trouble to be anticipated is to come from the commitment to the asylums on medical certificates alone, or medical certificates *approved* by magistrates or judges, of a class of insane persons sent to asylums not for medical treatment but for custodial care, some of the peculiarities of which class have been alluded to in another part of this article. Until the status of this class is more clearly defined it would be politic to exclude them from the asylums as far as practicable, and to discharge them as soon as it can be legally accomplished. We have grave doubts of the sufficiency of a commitment signed by physicians, even if ‘*approved*’ by a judge of a court of record. The theory on which society proceeds to restrain a member of it, of his personal liberty is, that he has committed a crime for which he shall atone or expiate by a loss of his personal liberty or other penalty or because he is dangerous to others or to himself. Insanity, if established by the certificate or evidence of physicians, may properly bring the individual within the latter category. The medical certificate is but a diagnosis and can have no legal force, even if fortified with the *approval* of a judge as in the New York State proceeding. The proceeding to be complete should require, further, an order of a judge or magistrate authorizing the admission of the insane person to an asylum, and such additional legislation where necessary, declaring a legally constituted asylum for the insane a proper place of detention for such persons. The form of commitment prescribed in Massachusetts is quite in accord with views here expressed. On one point we are well satisfied that the insane should not be committed solely on the certificates of medical men, nor by any pro-

ceeding which places the whole responsibility of detaining a patient on the medical superintendent of an asylum when presented for admission."

Papers like Dr. Chapin's, if generally read and understood, will do much to allay popular excitement and distrust of asylum management, and amendments to the existing lunacy statutes, based upon the ideas thus promulgated, if endorsed and approved by superintendents of asylums generally, would, we think, at once end an agitation as serious in its consequences, as Dr. Chapin so ably describes, and greatly help to settle and tranquillize the public mind.

BEER AS A DIET IN ENGLISH INSANE ASYLUMS.—A movement is on foot in Great Britain to discontinue the use of beer as an article of diet in the Asylums for the Insane. The movement is not *per se* a temperance reform agitation, but is being tried as an economic and moral advantage.

The *Journal of Mental Science* notes the results in various institutions.

It was first tried at the Cumberland and Westmoreland Asylum, under Dr. Clouston, and was a success, and is so regarded by Dr. J. A. Campbell, the present Superintendent, who favors the movement. Dr. Rutherford, of the Luzie Asylum, adopted it. The visiting Justices of the Devon County Asylum ordered the discontinuance of the daily supply of beer to inmates.

The Superintendent of the Derby County Asylum had commenced to diminish the quantity last October with a view to its ultimate entire suspension. Dr. Cassidy, of the Lancaster Asylum, has abolished the use of beer in his institution. Dr. Wade, of Somerset Asylum, has continued the disuse of beer instituted by his predecessor, and speaks most favorably of the change. Dr. Pritchard Davis, of Kent Asylum, Baring Heath, speaks in highest terms of the benefit to patients by the change of diet in withdrawing beer. Dr. Major, of the Wakefield Asylum, has dispensed with

beer, but gives no opinion yet as to the effect of the change.

Dr. Pringle, of the Glamorgan County Asylum, endorses it after a year's trial, although Dr. Pringle regards alcohol as most useful, as a medicine, and gives it as such to sick and feeble freely.

The movement is well started and strongly endorsed, and will probably in time be generally adopted in British Asylums.

We are not aware how far beer is used in asylums or institutions in the United States, but we commend these facts to our American Superintendents upon sanitary and economic considerations alone, and without reference to the moral or temperance aspect of the issues involved.

JOHNS HOPKINS UNIVERSITY.—We are glad to notice that this institution is to have a chair of Medical Jurisprudence. We take the ground that no Medical College is complete without such a chair, and certainly no Law School can afford to be without it. It should be an essential element in the study of all schools where law and medicine is taught. We do not know on whom the choice will fall for this Professorship in the Johns Hopkins University, but we should be glad to see it occupied by Professor Reese, of Philadelphia. He would grace the position and be a selection in accord with the advanced stand this University is understood to have taken, in higher education.

NEW YORK POST-GRADUATE MEDICAL SCHOOL has acquired a new building on East Twentieth Street, where it proposes to combine a hospital with the school, so that bedside instruction can be given in the various departments under the same roof. The removal from the old to the new building was announced to take place on or about February 1, 1884.

MORAL RESPONSIBILITY IN THE CASE OF MONSTROSITIES.—The following card we reprint from the *Medical and Surgical*

*Reporter* :—A correspondent at Ossian, Iowa, asks in the *Medical and Surgical Reporter* of September 15, information regarding the moral and legal responsibility of the accoucheur in cases of monstrosities, and makes the statement that an old practitioner informed him that his practice in such cases was to destroy life at once.

It is difficult to conceive how it can be questioned that however much they may vary from the human form, monstrosities are human beings after all—human in conception and intra-uterine existence certainly, and why not afterwards? And if so, why are they not entitled to the protection of law, both human and divine?

If the author of life has permitted those physical laws, which govern the formation of the body, to be suspended in a particular number of cases, what individual has the right to call in question the wisdom that has so ordered it, and attempt to thwart whatever design may have prompted it?

If the converse were accepted by the profession as the legitimate course to pursue, and “the old practitioner’s” custom endorsed, who would decide what constituted the degree of monstrosity sufficient to warrant its destruction? What amount of cerebrum must be wanting? How much deformity of body must exist? Such very important questions must necessarily be left largely to the discretion of the medical attendant to determine at the time.

If the amount of intellect and future usefulness of a deformed infant can thus be decided under the excitement and in the confusion of the sick room, and no crimes be committed, certainly deliberative medical boards might be constituted to examine idiots and old, worn-out useless people, who would never be anything but a charge to their friends or a burden to society, and consign them to the same fate that awaits the old practitioner’s monstrosities in Ossian.

Such a course, it is conceded, would be a material benefit to the world, and relieve friends of much care and annoyance, but its mere statement is so revolting that no argument

is required to show its immorality, but the same argument that would justify the one procedure, warrants the other.

Better that the physician be guided in this, as in all other ethical matters, by a high sense of moral obligation, and in spite of the solicitations and advice of interested parties, conserve the life he may take but cannot give, and leave results in other hands.

Surely no moral turpitude can attach to such a course, and the assurance that the life of most monsters that would be shocking to the senses, such, for instance, as the acephalous ones, are limited to a few hours or days at most, will usually quiet the apprehensions of the patient and her friends, and relieve the medical man from, at times, an embarrassing situation.

A SUBSCRIBER.

*Meadville, Pa.*

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SOCIETY OF ANTHROPOLOGY, OF PARIS, FRANCE.—At the session of December 6, 1883, the following officers were elected for 1884 :

President, M. Hamy ; Vice-presidents, MM. Dureau and Letourneau ; Secretary, General M. Topinard ; Assistant Secretary, M. Gerard de Rialle ; Secretaries, MM. Pratt and Issaurat ; Curator, M. Collineau ; Archiviste, M. Vinson ; Treasurer, M. Leguay.

Committee on Publication, MM. Quatrefages, Duval and Thulié (*Archives de Neurologie.*)

M. CHARCOT was elected a member of the French Academy of Sciences, vice M. J. Cloquet. We are glad to notice this distinction to Prof. Charcot.

GOWNS ON THE BENCH.—We are glad to notice that the Judges of New York Court of Appeals have assumed the Judicial Robe. We hope this example will be followed by the Appellate Courts of the several States, and trust that it



may meet such general approval from the bar and the public that our Judges in this State will assume the robes at least at General Term. We see no objection, and none can deny that it adds to the dignity and decorum of the Tribunal.

ABORTION.—*The British Medical Journal*, in reviewing the second volume of Dr. Charles Meymott Tidy's work on Legal Medicine, in discussing the chapter on *Abortion*, says :

"Thus, for instance, in treating of abortion, and the now well known legal principle that, when the only proof against a person (*e. g.*, an abortionist) charged with a criminal offence is the evidence of an accomplice (*e. g.*, the woman operated upon), it is the duty of the judge to warn the jury that it is unsafe to convict upon the evidence of an accomplice, uncorroborated. Dr. Tidy, in his anxiety to protect women, is anxious to make the evidence of the woman sufficient without corroboration by the evidence of others. Much as it is to be desired that the hideous, and, as we believe, increasing crime of criminal abortion should be put a stop to, we deprecate any such change in the law as Dr. Tidy contemplates. Were the evidence of the woman alone sufficient to convict, medical men would not be safe from the attacks of designing women. These might go to an abortion-monger and have an operation performed; then, immediately after, call in a medical man, who, in the event of an exposure, might easily be made the innocent victim of malice. The principle of the existing English law as to the evidence of accomplices is good, albeit the guilty too often escape, through its instrumentality."

We have not seen Dr. Tidy's work, and while we should sympathize with legislation to protect women, we should not, out of our desire to strike a blow at this practice, lose sight of the fact, that any medical man would be completely at the mercy of his patient, and, when really innocent, might be, and doubtless would be, in some cases, unjustly convicted. Justice to the accused is as important to society as punishment for crime.

WE give entire the admirable statistical work of the Medico-Legal Society of Massachusetts, for the year 1882, which is contained in No. 6, of Vol. I., of the transactions of that Society:

“REPORT OF THE EXECUTIVE BOARD ON THE WORK OF THE MEDICAL EXAMINERS FOR THE YEAR 1882.—The report of the Executive Board for the year ending December 31, 1882, is herewith presented. In its general features this report does not differ from the reports of previous years. Thirty-eight members of the Society have sent in summaries of their work for the year. From these the following statistics are derived:

Whole number of views .....	954
Number of views followed by autopsies.....	189
Number of autopsies refused by authorities ...	1
Number of inquests held on above .....	179
Inquests at which medical examiners testified.....	79
Cases reported by medical examiners as probably resulting from violence, in which no inquest was held.....	23
Number of deaths from natural causes.....	336
Number of deaths from railroad accidents.....	133
Number of deaths from other accidents.....	241
Number of deaths from suicide.....	117
Number of deaths from criminal violence.....	64
Number of deaths directly or indirectly the result of intem- perance .....	128
Prosecutions resulting.....	17
Convictions in cases now finished.....	7

“Two of the convictions resulted from cases begun in the previous year. The total number of convictions reported would seem to show a very meagre result from such a large amount of viewing and dissecting. It is probable, however, that many cases, like the two given above, are carried over into succeeding years, and do not appear at all in the reports, which in this respect, therefore, do not adequately represent the practical result of our work.

“The relative proportion of autopsies and inquests to views for the period of five and a half years is as follows:

YEARS.	1887 Six m.	1878.	1879.	1880.	1881.	1882..
Views .....	443	82	770	935	945	954
Autopsies.....	116	196	182	182	179	189
Ratio of autopsies to views .....	26%	23%	23%	24%	19%	20%
Inquests .....	99	172	151	197	189	179
Ratio of inquests to views.....	22%	20%	20%	21%	20%	19%

“The following percentages show the relative frequency of the various causes of death for the same period :

YEARS.	1877.	1878.	1879.	1880.	1881.	1882.
Natural causes.....	24%	40%	38%	35%	40%	38%.
Railroad accidents. ....	18	14	11	14	13	15
Other accidents.....	30	26	29	28	28	27
Suicide .....	16	11	15	12	12	13
Violence.....	12	9	7	11	7	7
	100	100	100	100	100	100

“Reports of individual cases to the number of one hundred and sixty-three have been made. The causes of death have been given in tabular form in two hundred and seven other cases. From the three hundred and seventy cases thus reported the following tables have been compiled :

#### CAUSES OF DEATH IN GROUPS.

	No.	Percent- age.
Accidental.....	136	37%
Natural.....	160	43
Suicide .....	51	14
Violence.....	23	6

#### ACCIDENTAL CAUSES OF DEATH.

Railroad casualties .....	55
Drowning .....	31
Falls .....	18
Run over by wagon.....	9
Poisoning (Chloral, 3 ; Aconite, 1 ; Methylic alcohol, 1).....	5
Falling bodies .....	3
Explosions.....	3

Machinery accidents .....	2
Blasting accidents .....	2
Suffocation .....	1
Caving of gravel bank .....	1
Shooting .....	1
Kicked by horse .....	1
Hæmorrhage (bite of tongue in fit).....	1
Exposure.....	1
Burning .....	1
Over-exertion in jumping rope.....	1

## NATURAL CAUSES OF DEATH.

Heart disease.....	46
Stillbirth.....	19
Premature birth.....	16
Alcoholism.....	15
Apoplexy.....	14
Unknown .....	11
Pneumonia.....	8
Peritonitis.....	6
Bronchitis.....	4
Pulmonary hæmorrhage.....	3
Meningitis .....	3
Old age.....	2
Congestion of brain.....	2
Aneurism.....	1
Cholera infantum.....	1
Cirrhosis of liver.....	1
Diarrhœa.....	1
Delirium tremens.....	1
Typhoid fever.....	1
Phthisis.....	1
Debility and exposure.....	1
Septicæmia.....	1
Marasmus.....	1
Poisoning [?] (habitual use of morphia).....	1

## DEATHS BY SUICIDE.

Drowning.....	10
Hanging.....	10
Cutting throat.....	6
Shooting.....	16
Poisoning (Arsenic, 2 ; Opium, 2 ; Illuminating Gas, 2 ; Strych- nine, 1 ; Chloral, 1). .....	8
Cutting arm.....	1

## DEATHS BY CRIMINAL VIOLENCE.

Infanticide (Suffocation, 1 ; Neglect to tie funis, 1 ; Neglect in general, 2 ; Exposure, 2 ; Strangulation, 1 ; Blow on head, 1 ; Drowning, 1 ; Unknown method, 2).....	11
Abortion.....	3
Blows.....	2
Pistol-shot wound of abdomen.....	1
Stabs (wounding carotid artery).....	1
Incised wounds of neck.....	1
Incised wounds of vulva .....	1
Privation.....	1
Blows, kicks, or violent pressure on abdomen.....	2

"The great falling off in the number of full reports of cases is very noticeable. The attempt of the Society to obtain and preserve in its archives complete records of all cases coming under the notice of its members has not proved a conspicuous success. Many of the reports thus far obtained are interesting and valuable ; but a portion of them are so meagre in their details as to be practically worthless. It is obvious that the standard of the Society in this particular was set too high, and that the burden placed upon members by the requirements of the by-laws is greater than many of them are willing to bear. Two members of the Society report upwards of one-third the total number of cases. The amount of simple clerical work, to say nothing of brain labor, involved in preparing complete histories of all these views and autopsies is something fearful to contemplate ; while for those who have fifty, or even thirty cases, the task is no easy one if conscientiously and thoroughly performed. It is therefore thought best by the Executive Board to advise that members be allowed to report their cases in tabular form, using blanks provided by the Society with headings like the following :

- (1.) Number of view.
- (2.) Location of view.
- (3.) Date of view.
- (4.) Name of person viewed
- (5.) Age of person viewed.
- (6.) Sex of person viewed.
- (7.) Supposed date of death.



- (8.) Cause of death in form of medico-legal diagnosis.
- (9.) Autopsy.
- (10.) Inquest.
- (11.) Verdict.
- (12.) Prosecution.
- (13.) Conviction.
- (14.) Remarks.

“By making use of paper with fine rulings, and devoting several lines to each case, enough space will be obtained to state all the leading facts—all certainly that are employed in preparing our annual reports. Every member is supposed to keep a careful record of all his cases; and if any have the time and feel willing to prepare copies of these records for the benefit of the Society, the Corresponding Secretary should stand ready hereafter, as in the past, to receive and file away in the usual manner all such reports. It is possible that medical examiners who are not members of the Society may, if appealed to, fill out the above-mentioned blank forms, and that with a little extra effort we may be able to obtain complete statistics for the whole State. The object to be attained is so desirable that it certainly seems worth our while to make the trial.”

#### RECENT LEGAL DECISIONS.

CHARITABLE TRUSTS—SCIENCE AND ART.—Endowments for the encouragement of art and science, without reference to the poor, are charities within the statute of 43d Eliz. *Man-nix v. Purcel*, S. C. Ohio, Oct. 30, 1883.—*Central Law Journal*.

HOMICIDE—MEDIATE AND IMMEDIATE CAUSE OF DEATH.—Where a wound is the immediate cause of death, it is no defense to an indictment for murder that the immediate cause was erysipelas, which set in in consequence of the wound. *Denman v. State*, S. C. Neb., Nov. 13, 1883; 17 N. W. Rep., 347.—*Central Law Journal*.

INSANITY IN LIFE INSURANCE CASES.—The recent case of *Broughton v. Manhattan Life Insurance Company*, decided

in the Supreme Court of the United States, settles the law as to the legal effect of suicide by an insane person, that it does not vitiate the policy, even when the policy excepts death by suicide.

The decision is: "A self-killing by an insane person, understanding the physical nature and consequences of his act, but not its moral aspect, is not a death by suicide within the meaning of a condition in a policy of insurance upon his life, that the policy shall be void in case he shall die by suicide, or by the hands of justice, or in consequence of a duel, or of the violation of the law."

The evidence in the case, of the experts, was substantially that the insured was suffering from melancholia—on which the jury found him to be insane. The Court held, from the verdict, "that his reasoning faculties were so far impaired that he could not fairly estimate the moral consequences or the moral complexion of the act, even though he could reason sufficiently well to prepare with great deliberation to execute his design with success, nevertheless he was so far insane that the plaintiff is entitled to recover on the policy."

The Court held also: "That if a man's reason is so clouded or disturbed by insanity as to prevent his understanding the real nature of his act, as regards either its physical consequences or its moral aspects, the case appears to us to come within the forcible words uttered by the late Mr. Justice Nelson, when Chief Justice of New York, in the earliest American case on the subject (*Breasted vs. Farmers' Loan and Trust Company*, 4 Hill, 73). Speaking legally also (and the policy should be submitted to this test), self-destruction by a fellow-being bereft of reason can with no more propriety be ascribed to his own hand, than to the deadly instrument that may have been used for the purpose, and whether it was by drowning, or poisoning, or hanging, or in any other manner, 'was no more his act in the sense of the law than if he had been impelled by irresistible physical power.'"

This case is more important than its first examination would indicate.

The character of the evidence and the testimony as to the mental state and condition of the deceased, show that the leaning of the courts is to a more intelligent and critical examination in such cases, as to the question of insanity itself. It is not put upon the old standard of ability to discriminate between right and wrong, or upon the knowledge of the effect of and consequence of his act, as was the earlier doctrine, but is a clear indication of a higher and better judicial judgment as to the true nature of insanity, and is important in its relation to what shall be established to be insanity, when pleaded as a defense for crime.

SUICIDE by an insane person does not void a life insurance policy. In order that a self-killing shall be a death "by suicide" or "by his own hand," within the meaning of those words, as used in an insurance policy, the deceased must have understood the moral character of the act he was about to commit as well as its physical consequences: *Manhattan Life Ins. Co. v. Broughton*, S. C. U. S., October Term, 1883 Gray, Justice, writes the opinion. Supreme Court United States, November Term, 1883, *Broughton vs. Manhattan Life Insurance Company*. (*Albany Law Journal*, 1883, p. 466.)

INSANITY OF WIDOW defeats right of election as to dower, etc.: *Van Steenwyck vs. Washburn*, Wis. Supreme Court Reports (November 20, 1883); N. W. Rep., 289. (*Albany Law Journal*, December, 1883, p. 483.)

TOWN BOARDS OF HEALTH POWERS, ETC.—New York Supreme Court: *New York Infant Asylum vs. Board of Health of Town of East Chester*. The local Board of Health in the Town of East Chester, during the prevalence of an epidemic of measles and diphtheria, visited the institution and ordered the Resident Physician to remove sick children from the

quarantine tents, where they had been placed by the medical men in charge, into other wards; interfered with the Resident Physician, and criticised her treatment and competency. The institution obtained an injunction restraining the Board from all interference with its medical officers. On motion to vacate the injunction, held by Dykman, Justice: "That a town Board of Health has the right to visit and inspect a public institution, to inquire if any epidemic or infectious disease is prevailing, and may take such precautionary measures as would best prevent its spread from the institution to the inhabitants of the town. It has no right to interfere with the patients, or with the treatment of cases, nor to criticise the treatment or competency of the physicians of the institution, nor to touch anything on the premises. Ordering the removal of sick children by the local Board of Health from the quarantine tents, where they were placed by the regular physicians in charge, was an unwarrantable act and a trespass. It is no part of the duty of a Board of Health in a town to investigate as to alleged incompetency of physicians in an institution, or the propriety of treatment, or the medical or other management. That is the affair of the institution, which is a body organized by law. The Town Board of Health has the simple right of visitation for the purpose of inquiring into the existence of an infectious disease, and if found to exist, then only to take proper steps to prevent its spread outside the institution. The injunction granted to restrain the Board of Health from interfering with the institution or its physicians should be made permanent."

**CORONERS' FEES.**—The Coroner of Lancaster County, Pa. sued the County for his fees upon an inquest in a case of death from paralysis. The Supreme Court decided against him, declaring that "when there is no ground for suspecting that the death was not a natural one, it is a perversion of the whole spirit of the law to compel the county to pay the coroner for such services."—*New England Medical Monthly*.

*Homicidal Mania* must be proved by evidence which "fairly" preponderates. *Coyle v. Commonwealth*, 191, and note.

*An Attempt at Suicide* is not of itself evidence of insanity. *Id.*

*Books of Science* not admissible to prove opinion contained therein, but may be received to contradict witness who has referred to them as authority. *Pinney v. Cahill*, 104, and note. (*Ib.*)

*Medical Books* cannot be introduced in evidence, nor can expert testify as to statements made therein, nor can they be read to jury by counsel. *Boyle v. State*, 621. (*Ib.*) *American Law Register*.

*Expert Testimony.*—Rule that witness not an expert cannot testify as to his opinion, not of universal application; under certain circumstances, such witness may state his observation as to cause and effect. *Yahn v. City*, 644, and note.

*Physicians' Services.*—In suit by physician to recover for services, where the only testimony as to their value and propriety of treatment is opinion of other physicians, it is error to instruct jury that they may disregard this opinion. *Wood v. Barker*, 323, and note.

*Opinion evidence generally.* *Id.*, note.—(*American Law Register*.)

*Presumption of a Man's Insanity* is not raised by his suicide; but that fact, in connection with other evidence, is pertinent to issue of insanity, especially where suicide is immediately preceded by murder or attempted murder of members of family, and the destruction of his property without any apparent motive or provocation. *Karow v. Ins. Co.*, 283.

*Act of Insane Holders on Policy of Insurance.*—Where there is nothing in policy to contrary, insurer is not released from liability, because property was burned by assured while insane, nor unless burning was caused by voluntary act, assent, procurement, or design of assured. *Id.*

*Pauper Lunatics.*—Incapable of acquiring pauper settlement in his own right.

Such a person, until forty-eight years of age, lived in his father's family and was then sent to insane hospital. *Held*, That he followed father's residence acquired while pauper was in hospital. *Id.* (*American Law Register*.)

*Physician's Certificate of Insanity—Commitments to Insane Asylum—Evidence.*—In an action against physicians, for falsely certifying, through malice or negligence, to the insanity of a person, who is thereby committed to the insane asylum, and the pleadings raise the issue as to the sanity of such person at the time when the certificate alleges her to be insane, the burden of proof is on the plaintiff in respect to the averment and claim that she was then sane; *Pennell v. Cummings*, 75 Me.



In such an action the falsehood, and not the insufficiency of the certificate, is the ground of action against the certifying physicians. Without statutory provisions to that effect there cannot be a civil action for damages against a physician, based upon the insufficiency of the methods which he pursued in reaching and certifying a correct conclusion : *Id.*

If physicians who have certified to the insanity of a person have not made the inquiry and examination which the statute requires, or if their evidence and certificate in any respect of form or substance is not sufficient to justify a commitment, the municipal officers should not commit, and if they do it is their fault and not that of the physicians, provided they have stated facts and opinions truly and have acted with due professional skill and care : *Id.*—(*American Law Register.*)

*Undue Influence—What Constitutes*—The influence which will avoid a will must be exerted to such a degree as to amount to force or coercion in destroying free agency ; it must not be the influence of affection or attachment, nor the mere desire of gratifying the wishes of another, for that would be a very strong ground in favor of a testamentary act, and there must be satisfactory proof that the will was obtained by coercion or by importunities which could not be resisted, so that the motive was tantamount to force or fear : *Layman v. Conrey*, 60 Md.

*Evidence—Dying Declarations—Admissibility.*—Great caution is necessary not only in the admission, but in the use of dying declarations. The acts often occur under circumstances of confusion and surprise, calculated to prevent accurate observation ; the consequences of the violence may occasion an injury to the mind, and an indistinctness of memory as to the transaction ; the deceased may have stated his conclusions, which may be wrong ; he may have omitted important particulars ; he may give a partial account ; or his passions may not have subsided ; he is not subject to cross-examination ; and such declarations as he makes are apt to have great weight with juries. Upon the offer of such declarations the judge must decide upon the preliminary evidence in the first instance. If he deems it *prima facie* sufficient, he should admit the declarations, instructing the jury afterwards to pass finally for themselves on the question, whether or not the declarations were conscious utterances in the apprehension and immediate prospect of death. The admissibility and competency of the evidence is for the judge to decide : *Mitchell v. The State*, 68 or 69 Ga.—(*American Law Register.*)

*Defence of Insanity—Burden of Proof.*—It is not error to refuse to charge that if there be a reasonable doubt in the mind of the jury as to the sanity of the accused, they should resolve the doubt in favor of his insanity. The plea of insanity is a defence, and the burden of proving it is on the accused : *Graves v. State*. 16 Vroom.

The defence of insanity, while not disfavored by the law, is regarded with jealousy, and in the interest of public justice it is subjected to a close and careful scrutiny. It must be proved to the satisfaction of the jury, and

it may be established by the preponderance of proof. In other words, it must be sustained by the evidence : *Id.*—*American Law Register*.

*Criminal Law—Insanity—Burden of Proof.*—The defense of insanity to excuse homicide need be proved only by a bare preponderance of evidence. *State v. Jones*, S. C. Iowa, Dec. 15, 1883, 17 N. W. Rep., 911.—(*Central Law Journal*.)

*Coroners.*—The Stipendiary Magistrates, Commissioner and Assistant Commissioners of the Northwest Mounted Police, and such other persons as may be appointed by the Governor in Council, are Coroners in and for the Northwest Territories of Canada.

When an inquest is held the jury need not exceed six in number, but at least six jurymen must agree in the verdict : Vict. cap. 25, sec. 71-82, s-s. 4. —*Canadian Law Times*.

*Insanity—Disaffirmance of Contract.*—An insane person cannot disaffirm his contract until he returns the consideration given. *Caldwell v. Ruddy*, S. C. Idaho, 1 Pac. Rep. 339.—(*Central Law Journal*.)

*Bastardy—Marriage of Mother a Defence—State v. Shoemaker, Supreme Court of Iowa.*—Where a man marries a woman, knowing that she is already with child by another man, he is held to adopt the child into his family, and the law holds him liable for its support, as one standing in *loco parentis*. No action can, therefore, be maintained against the natural father for its support as a bastard.

This case is reported with full valuable notes to decisions in the *Central Law Journal* for February. 1884, p. 114, et seq.

### SUPREME COURT OF MASSACHUSETTS.\*

It is not necessary to the maintenance of an indictment under the General Statutes, chap. 165, § 9, for an attempt to procure the miscarriage of a woman, that she should be pregnant with child.

The testimony of a medical examiner, who is conceded to be qualified as a medical expert, as to what he found upon making an autopsy is not rendered incompetent by the fact that, in making the autopsy, he proceeded without authority, and did not in other respects follow the course prescribed by the Statutes of 1877, chap. 200, for medical examiners in such cases.

C. ALLEN, J. The principal question in this case is whether, under the Gen. St. c. 165, § 9, it is a criminal offense to do the acts therein mentioned with intent to procure the mis-

\* Massachusetts Reports, vol. cxxxii., p. 261, 1882.

carriage of a woman who is not in fact pregnant with child. The question arises upon a motion to quash the indictment, which contains no averment of such pregnancy ; but it has been argued, and we have considered it, as if it had appeared in evidence on the trial that she was not so pregnant. A brief examination of the Statutes on this subject, in England, and in this Commonwealth, leaves no doubt in our minds as to the true construction. Under the St. of 43 Geo. III. c. 58, § 2, it had been held that, in order to constitute this offense, it was necessary that the woman should be with child. Thereupon the St. of 9 Geo. IV. c. 31, § 13, was passed, which provided in terms for the punishment of acts done with intent to procure the miscarriage of any woman not being, or not being proved to be, then quick with child. This was followed by the St. of 7 Will. IV. and 1 Vict. c. 85, which makes punishable similar acts, with intent to procure the miscarriage of any woman, not mentioning whether she must be with child or not. Under this statute it was held in *Regina v. Goodchild*, 2 Car. & K. 293, that a conviction was right, although it appeared on an examination of the woman's body after death that she was not pregnant at the time she was operated on. Under this state of things the Gen. St. c. 165, § 9, were passed, adopting substantially the same language as the English statute ; and, if there were nothing more to aid in ascertaining the intention of the Legislature, the presumption would be strong that it was intended to adopt the same construction which had been given to the statute in England.

But this view of the meaning of the statute is made conclusive by a recurrence to the former legislation in Massachusetts. By the statute of 1845, c. 27, the doing of these acts with the intent to cause and procure the miscarriage of a woman "then pregnant with child" was made punishable. This statute continued in force until the adoption of the General Statutes. The commissioners, in their revision, preserved the words above quoted, which made it necessary

to prove such pregnancy ; but the Legislature omitted them. These words were not superfluous, but were of vital significance. It has been asserted, with great vigor of expression, that when a statute is revised, or one act framed from another, some parts being omitted, the parts omitted are not to be revived by construction, but are to be considered as annulled ; and that to hold otherwise would be to impute to the Legislature gross carelessness or ignorance, which is altogether inadmissible. In view of this rule, declared sixty years ago to be well settled, the statute in question was passed, and must be deemed to have been intended to change the law.

The defendant objected at the trial that the medical examiner, who made an autopsy of the body of the deceased, and who was conceded to be qualified as a medical expert, could not be allowed to testify to what he found upon such autopsy, for the reason that, in making it, he proceeded without authority, and did not in other respects follow the course prescribed by the Statutes of 1877, c. 200, for medical examiners in such cases ; but we are of opinion that such want of authority or irregularity on his part did not render his testimony incompetent.

[The circumstances of the case which was the occasion of these decisions were, in brief as follows :\* A young unmarried woman died suddenly in the office of Henry Taylor, an irregular physician, in the afternoon of October 26, 1881. To the medical examiner, on his arrival soon afterward, Taylor stated that his patient had fallen over in a fainting fit while she was sitting by his side answering his questions, her sister being in an adjoining room ; that she died in a few minutes, in spite of the combined and vigorous efforts of himself and a neighboring doctor whom he called to his help ; that the cause of her death, as he believed, was heart disease, to which she had long been subject. An undertaker was

\* Reported, as an oral communication, at the meeting of February 7, 1883, by F. W. Draper, Medical Examiner.

summoned to remove the body of the girl to her home ; but before the removal was accomplished, the medical examiner had asked and secured permission from the family to make an autopsy, upon the ground that it was important to verify the cause of the death ; the question of violence had not then been raised. Under this free permission, presumed to be a sufficient authority for a private autopsy, the medical examiner proceeded early the following morning to make his inspection of the body. The very first steps in the examination indicated clearly that the whole truth had not been told on the previous day, and that probably the death was not due to natural causes. Accordingly, in order to conform as far as was then practicable with the law concerning the investigation of deaths by violence, two witnesses (one of them a physician), were summoned to attend during the rest of the examination. The authority to which the statute refers as being requisite before an autopsy is begun was not obtained, but when the report of the investigation was filed with the District Attorney he readily gave his written assent to all the proceedings. The post-mortem section discovered that the woman was pregnant, the womb containing a fœtus measuring fourteen inches and weighing two pounds ; that all the organs in the body were of healthy structure ; and that the cause of the death was the admission of a large amount of air to the heart through uterine sinuses forcibly and recently ruptured by some blunt instrument like a catheter or a sound—in other words, that the case was one commonly known as “criminal abortion.”

As a consequence of these revelations, the doctor in whose presence the patient had died was arrested, indicted, tried and convicted upon a charge of attempting to procure the miscarriage of the woman, and of thereby causing her death.

At the beginning of the trial in the Superior Court, before any testimony was presented, the counsel for the defendant moved to quash the indictment for the reason that it contained no allegation that the deceased was pregnant when



the accused attempted to procure her miscarriage as charged. This motion was overruled, and the trial proceeded.

At a later stage objection was made, in behalf of the prisoner, to the admission of any testimony from the medical examiner relating to the autopsy upon the body, because he (the examiner) had failed to comply with the provisions of the law, in that "he had no authority from the District Attorney, mayor, or selectmen of the district, city or town, where such body lay, to make such autopsy; that his autopsy was not made in the presence of two or more discreet persons; and that he did not call the attention of any witness to the position and appearance of the body before making such autopsy." The objection was overruled, and the testimony was admitted in full, the medical examiner being permitted to testify as a medical expert.

The accused having been found guilty by the jury, the case was carried, in his behalf, to the Supreme Judicial Court, upon a motion to set aside the verdict because of the imputed error in the indictment as above mentioned, and also upon a bill of exceptions setting forth the irregular proceedings of the medical examiner in connection with the autopsy and objecting to the ruling which admitted his testimony. The preceding is a copy of the rescript, as prepared by Hon. Charles Allen, one of the Justices of the Supreme Court, and assented to by the full bench.]

## TOXICOLOGICAL.

POISONING BY FISH.—Dr. James Edwards, of Liverpool, contributes to the January 5th number of the *British Medical Journal* a case of poisoning by eating the fish called "Ray." The case occurred December 8, 1883, and was marked by decided symptoms. Swollen face, burning sensation in the hands and at back of head, feet cold, the tongue so swollen as to fill the mouth, attended with choking sensation at root of tongue, intense itching of the skin and great thirst. The son of the patient had previously suffered similar symptoms after eating fish, which Dr. Edwards thought might indicate hereditary predisposition to the influence of poisonous fish.

The case yielded to treatment but indicates the poisonous character of this species of fish.

POISONING BY RED PRECIPITATE.—Dr. E. Kennedy, of Gorton, England, relates a case from his practice in the *British Medical Journal* (January 12, 1884,) of poisoning by red precipitate (two drachms). It was successfully treated by an emetic of sulphate of zinc, followed by raw eggs, magnesia in milk. The symptoms were burning, epigastric pain down the whole abdomen.

POISONING IN HOLLAND.—A married woman, called Van der Linden, aged 45, mother of three children, is in custody at Leyden on a charge of having murdered sixteen persons within the past few years. Nearly all the victims were members of her family, whose lives she had insured in burial and life insurance companies without their consent, with the intention of poisoning them, and receiving the money at

their deaths. The crimes became known under the following circumstances: A family named Frankhuyzen, at Leyden, lost on one day the mother and a child of eight months. The father was also taken ill, and removed to a hospital. In each case there were symptoms of poisoning, and the examination of the bodies proved this to be the fact. It was ascertained that Mrs. Van der Linden came into the house of her relatives, and put poison in milk which was being made hot on the fire. After the death of the woman and her child, it was remembered that, during the last two or three years, a number of the members of the family had died under the same circumstances, and the bodies of two other children which had been exhumed showed traces of poison. A cousin of Mrs. Van der Linden, a soldier, whom she tried to poison fifteen months ago, is very ill, and Frankhuyzen is in great danger. The accused has confessed her guilt. Her husband is innocent. The prisoner has herself lost five children, and it is presumed that they have also been poisoned.—*British Medical Journal*.

POISONING BY HASCHISCH.—Dr. Gustave Le Bon contributes a very interesting statement in the *Journal de Médecine de Paris* of the case of two ladies, who, by accident, took immoderately large doses of this drug; the one, four or five, the other seven or eight times the usual quantity.

In the former case loss of consciousness in her personality was observed, recurring at intervals, and a state resembling somnambulism. She responded to all questions and revealed secrets, speaking of herself in the third person.

She was on second day conscious of the double personality, but unable to resist the power of the drug when the condition recurred.

The latter case was identical in characteristics with the former. The cases were treated with large doses of coffee, but most relief was obtained by exposing the patient to a very hot fire to stimulate circulation.

The Psychological phenomena was very remarkable. Dr. Le Bon strongly recommends the application of dry heat in cases of chilling, and says it works marvellously well in cases of resuscitation from drowning.

He suggests the medico-legal question whether the condition that may be thus produced by heroic doses of haschisch may not be utilized in grave criminal trials to obtain the truth from persons suspected of crime, to avoid judicial mistakes. The French system of interrogating a person accused of crime, might justify the use of this drug, but could it be done under our system without the consent of the accused?

CAN HUMAN BLOOD BE TOLD FROM THAT OF THE DOG?—Dr. C. H. Stowell contributes important data on this subject to the *Microscope*, we quote him :

"In a recent case on trial at Wellsboro, Pa., Dr. Thad. Up de Graff, of Elmira, N. Y., swore very positively on this point. The newspapers give Dr. Up de Graff the credit of convicting the prisoner. It is not the proper place here to determine whether the prisoner was guilty or not; it is within the province of this journal, however, to determine whether the expert testimony was according to facts. Dr. Up de Graff was given some of the stained clothing to examine, and by processes entirely unknown to the writer (according to all accounts seen), by decantations, washings, etc., some corpuscles were procured and measured. Dr. Up de Graff positively testified that this was human blood and not dog's blood. When asked if he was the only one who could tell this, he replied that 'there were but *four* men in the world who could tell human blood from dog's blood;' and of course he was one of them. When asked why he could do so much better than others, the reply was, 'On account of the superior character of his glasses, and that his microscope cost sixteen hundred dollars.' The testimony of Dr. Up de Graff makes him give a positive size to the human red blood corpuscle. What do standard writers say on this subject?

"Gulliver says they are the 1-3200 of an inch.

"Flint says they are the 1-3500 of an inch.

"Dalton says they are the 1-3731 to 1-3050 of an inch.

"Richardson says they are the 1-3378 of an inch.

"Woodward says they are the 1-3092 of an inch.

"Frey says they are the 1-2840 to 4-4630 of an inch.

"Welcker says they are the 1-3230 of an inch.

"Where is the exact size to judge by? The red corpuscles are also subject

to change in size by the varying changes in the blood and by many drugs. Wagner, in his General Pathology, gives a long list of remedies that when administered changes the size of this corpuscle. How delicate it is, also, to the various reagents used in microscopical work! I have seen red corpuscles as small as 1 5000 of an inch. I have never measured red blood corpuscles in lots of fifty each and had any two exactly alike, although using a delicate cobweb eye-piece micrometer and a one-fiftieth objective.

"Listen to what Mr. Woodward, of Washington, says: 'The average of all the measurements of human blood I have made is rather larger than the average of all the measurements of dog's blood. But it is also true that it is not rare to find specimens of dog's blood in which the corpuscles range so large that their average size is larger than that of many samples of human blood.'

"Human blood cannot be told from dog's blood, except under favorable conditions, and not invariably then, for the sake of microscopy it is a pleasure to know that only *four* men are ready to make such statements. There are a score of men in this country with glasses equal, at least, to Dr. Up de Graff's, who would testify directly opposite to him on this point. If Dr. Up de Graff is ready to receive a number of pieces of cloth, labeled and stained, respectively, with human and dog's blood, under favorable and unfavorable circumstances, this journal will see to it that said cloths are prepared with accuracy by competent parties. If he succeeds, he shall receive all the glory these columns can sound forth, but if he fails he will be referred gently to his Wellsboro testimony."

We commend this subject to the students of microscopy and toxicology in the Medico-Legal Society of New York, and throughout the country, and invite discussions and reports of facts in these columns.



## JOURNALS AND BOOKS.

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THE IRISH LAW TIMES.—We are glad to welcome this journal to our exchanges. It is ably edited, and would be a valuable addition to any lawyer's library.

The Irish Law Times Reports are published with it as a serial, so that they can be bound separately.

The Dublin Bar seem just now to be agitating the question of abolishing the distinction between Barristers and Solicitors, or, as it is termed, "amalgamating the two legal professions."

An interesting debate is given in the number of January 19, 1884, occurring at a meeting of the "Incorporated Law Society," held at Four Courts, on January 11, 1884, Mr. Wm. Dalton, President, in the chair, which was very largely attended by the Dublin Bar.

Resolutions favoring the amalgamation were offered after a very able address by Mr. R. K. Clay, and seconded by Mr. J. D. Rosenthal. The editorial on "Service of English Writs on Irish Defendants," and articles on "The Privileges of the Accused," will interest our legal readers.

POPULAR SCIENCE MONTHLY.—Edited by E. L. & W. J. Youmans. (D. Appleton & Co., New York.) This valuable scientific journal has entered upon its 24th volume, and well deserves the success it has achieved. The January number contains (among others) an able paper by Dr. T. S. Clouston, on Female Education, which has excited public interest; a paper on Defective Eye-sight, by Samuel Yorke St. Lee, and on Idiosyncrasy, by Prof. Grant Allen, from the English journal, "MIND."

The February number contains a paper, by Dr. Felix L. Oswald, on The Remedies of Nature—Nervous Maladies; an interesting paper on "Last Wills and Testaments," by Jos. W. Sutphen, Esq., and a very interesting though short article on the Working Capacity of Unshod Horses, by A. F. Astley, (from *Land and Water*.)

NORTH AMERICAN REVIEW.—Allen Thorndike Rice, Editor. This able and most venerable of American Reviews, now in its sixty-ninth year, is largely and deservedly extending its circulation and influence. Dr. Hammond's estimate of woman was reviewed in the November number, 1883, by four women—Lillie Devereux Blake, Nina Morris, Sara A. Underwood, and Dr. Clemence S. Lozier—who do not spare him, but use the knife as if they were all doctors at the dissecting table.

Mr. Henry George's article, in the December number, on Overproduction, is a noticeable paper. The January number, 1884, commences the 138th volume, and contains a valuable paper by Senator Henry W. Blair; and the Rival Systems of Heating are ably discussed in the February number, by Dr. A. N. Bell and Prof. W. P. Trowbridge.

WE have to acknowledge the receipt of many books, journals, and papers, in way of exchanges. Among them: *The Legal Adviser*, a weekly law paper, which is always laden with valuable matter pertaining to law. The *Texas Law Review*, edited by Ed. J. Hamner, modelled after *The Albany Law Journal*, contains a goodly table of contents, Court of Appeals cases, involving the subjects of liability of railroads for overcharging passenger fare; lease of right of way by railroad; trespass; and meaning of the word "account" in the statute. *The Canadian Law Times*, a monthly periodical, the present number containing an exhaustive article on "The Constitutional Status of the Northwest Territories of Canada," which is of much interest; an article on "Objec-

tions to the Torrens System," with a carefully prepared digest of recent decisions on a variety of interesting law subjects. *The Colorado Law Reporter*, a weekly journal, edited by James A. Dawson, is carefully arranged, in which law cases of general interest are given. *The Journal of Jurisprudence* (Edinburgh), a monthly journal, containing articles on "A Chance for the Bar," in which the writer takes rather a gloomy bird's-eye view of the Bar in Scotland. He says: "Nowadays the mere lawyer, with all his estimable qualities of industry and respectability, is seldom of real service to the country, and injures the ancient prestige of the body to which he belongs :

" Law only charms the legal swell :  
 A primrose by the river's brim  
 (See Wordsworth, case of *Peter Bell*,)  
 A primrose only is to him."

The article on "Jurisdiction of the Court of Chancery in Scotland," reviews in an able manner the opinion of LORD FRASER in the case of *John Orr Ewing and others vs. Orr Ewing's Trustees*, in which case it was *held* that the testamentary trustees and executors of the will of *Ewing* are bound to administer his estate and carry out the purposes of his trust settlement in Scotland, and under the authority of the courts of Scotland alone, *and are not entitled to render accounts to any foreign tribunal*. "The Cost of a Successful Litigation;" cases on "Private Theatricals;" "The Action for Breach;" and other articles make up the January number.

We have received the *National Druggists' Journal*, which is always well stored with interesting and readable matter. We have also received the *Civil Service Record*.

THE ANALECTIC, a monthly journal, is announced by G. P. Putnam's Sons, publishers, under the editorship of Dr. Walter S. Wells, former editor of the *Quarterly Epitome of Medicine and Surgery*, at the subscription price of \$2.50, and in clubs of five for \$10.

HARDWICK'S SCIENCE GOSSIP, J. E. Taylor, editor, (Chatto and Windus, Piccadilly, London,) is on our table. It is certainly the best serial in its field that has come under our observation.

KNOWLEDGE, (Wyman & Sons, 74 Great Queen St., W. C., London,) Prof. R. A. Proctor, editor.

We welcome this journal to our list of exchanges and shall make use of its valuable columns in future, for the benefit of our readers.

Professor Proctor's numerous friends in America can keep better posted as to advance in astronomical discoveries by subscribing to this journal than in any other manner.

None of the professions contain a larger proportion of members interested in astronomical studies than those of Medicine and Law.

THE NEW ENGLANDER.—Wm. L. Kingsly, proprietor, New Haven, Conn., a bi-monthly journal, we are glad to notice. \$4 per annum.

The March number contains "*Scientific Ethics*," by Henry T. Slute; "*Darwinism and Christianity*," by E. G. Bourne, from the German of Wm. Bender, and is a most scholarly paper from the Christian side of that question. The article on "*Teleology, Old and New*," by F. A. Mansfield, will greatly interest all those who care for these questions, while the review of "*The Substitute for Christianity, proposed by Comte & Spencer*," by Julia H. Gulliver, is worth reading, even by those who have accepted the views of those writers. The March number is very able, indeed.

LEÇONS, SUR LES MALADIES MENTALES. By. Prof. Benj. Ball. Paris (Asselin et Cie., 1883), 884 pp.

This volume is the result of lectures given by Prof. Ball before the Faculty of Medicine in Paris, in 1875 and 1876, and also at the Clinic of the Asylum at Saint Ann since 1879.

The work is divided into forty-five lectures or chapters. He examines the history of the Science of Mental Medicine from the earliest pages of history to our own time, defines insanity, and devotes several lectures to its physiology, leading characteristics and traits. The physical brain and its maladies, is his theme rather than metaphysical disquisitions involved in the mind, and its observed relations to thought, action and will. He adopts the definition of insanity given by Esquirol, rather than to attempt one of his own. "Insanity is a cerebral affection, ordinarily chronic, without fever, and characterized by some disorder of the sensibilities, the intelligence or the will."

He, however, gives us his definition of an insane person, as "a man who, by reason of mental disturbance, has completely lost, or nearly so, the freedom of his will, and has ceased, in consequence thereof, to be responsible to society for his conduct."

He devotes two lectures to "Illusions and Hallucinations," and one to "Irresistible Impulse and Insane Delusions."

The sixth lecture is devoted to the physical characteristics of the Insane, and the seventh to the Anatomy of the Brain and the peculiar lesions characterizing insanity.

The next eight lectures are devoted to a critical examination of different forms of insanity, which are examined separately and minutely.

The author discusses the causes of insanity, and tests for its recognition, in the next five lectures.

Thirteen chapters are devoted to a very able classification of various forms of insanity and methods of treatment, which are well worth careful study. He embraces chronic alcoholism, delirium tremens and dipsomania in this classification.

General Paralysis is examined exhaustively in seven or more lectures.

He devotes one lecture to Idiocy, its causes, treatment, anatomical state and lesions, and the physical phenomena.

One lecture on Cretinism is well worthy of reproduction,



and the work closes with a lecture upon the relation of the insane to society, under the old law of France and since the act of 1838.

We should be glad to see this work of Prof. Ball translated into our language. It would, we feel sure, have a large sale, and be read everywhere by students of the science with interest.

Prof. Ball is a fine English scholar, and we hope to have something shortly from his able pen for the Medico-Legal Society, or for the columns of this JOURNAL.

NEW ENGLAND MEDICAL MONTHLY.—William C. Wile, M.D., Editor and Proprietor. We regard this journal as exceptionally valuable. It is furnished at the low price of \$2 per year. Each number contains a portrait. The December number contains that of Dr. Eugene Grisson, the January number Dr. Henry O. Marcy, and the February number that of Dr. Nathan Allen. We predict a large circulation for this bright and sparkling journal.

THE ESCULAPIAN.—Edited by Edward J. Bermingham, M.D. The first number of this journal appeared January, 1884. Dr. F. N. Otis contributes the leading paper, on "*Syphilis of Infants and Hereditary Syphilis*." Dr. Allan McLane Hamilton gives a thoughtful paper on Concussion of the Spine (Railway Spine), which is an important contribution to the discussion originated by Dr. J. G. Johnson's paper in the Medico-Legal Society. Dr. Clinton Wagner contributes a paper, "*Smell, Hygienically and Medico-Legally Considered*," to the February number. He cites several cases where the sense of smell can be used, as he claims, reliably for the detection of crime. The paper is valuable from a medico-legal standpoint. Dr. W. A. Hammond's paper on "*Miryachit*," is reprinted, while Dr. A. Jacobi and Dr. Newton M. Shaffer contribute original papers. The Journal has an attractive appearance and is ably edited.

BUCKHAM'S INSANITY IN ITS MEDICO-LEGAL RELATIONS.—J. P. Lippincott & Co., Philadelphia, 1883.

Dr. Buckham assails with great ability the system of hypothetical questions put to expert witnesses in trials of insanity cases, and adds to the arguments constantly presented from the medical side as to the so-called legal theory of insanity.

He seeks to avoid the acknowledged uncertainty of verdicts in such cases, by changing existing legal methods.

His chapter on legal tests and definitions of insanity is well worth study.

Insanity, as a disease of the brain, and the organs of transmission, is ably presented, and the proposition that insanity is a physical and not a mental disease, is claimed and argued with great ability. His definition of insanity is:

"A diseased or disordered condition or malformation of the physical organs, through which the mind receives impressions, or manifests its operations, by which the will and judgment are impaired and the conduct rendered irrational."

And he offers as a corollary to this definition:

*"Insanity being the result of physical disease, IT IS A MATTER OF FACT, to be determined by medical experts; NOT A MATTER OF LAW, to be decided by legal tests and maxims."*

On the question of experts, Dr. Buckham has original ideas. He lays down the grounds: "*That general medical practitioners in insanity are not experts in insanity, and should not be allowed to testify as such.*"

He reviews the unsettled state of the law and decisions as to experts and expert evidence, and proposes the plan of a State and National Board of Experts, chosen for their fitness, who should give testimony whenever required by the courts, receiving no compensation from suitors for preparing depositions or attending trials.

The appendix to the volume contains abstracts from important legal decisions in this country and in England on Cases of Insanity and Responsibility, with comments and valuable observations.

On the whole, the work is a valuable contribution to Forensic Medicine, and a credit to Dr. Buckham.

JOURNAL OF NERVOUS AND MENTAL DISEASES.—(G. P. Putnam's Sons), Wm. J. Morton, M.D., Editor.—This journal stands in the front rank of American scientific journals in its specialty, and is deservedly prized by the students of neurology and psychiatry on both sides of the Atlantic.

It commenced its 10th volume January, 1883, with an original paper by Prof. J. M. Charcot, on "*Central Automatism in the Cataleptic period of Hypnotism.*" Dr. James Putnam contributed a paper on "*Spinal Cord in Poliomyelitis;*" Dr. Jas G. Kiernan, one entitled "*Contributions to Psychiatry;*" Dr. Ambrose L. Ranney, on "*The Corpus Striatum;*" Dr. H. Bannister, on "*The Propagation of Insanity,*" and Dr James Kingsbury, on "*Microscopical Examination of the Brain and Spinal Cord of an Epileptic.*"

The April number contained among other papers "*Perverted Sexual Instinct,*" by Dr. J. C. Shaw and G. N Ferris; "*Psychical Traumatism in Inebriety,*" by Dr. T. D. Crothers; "*Pathology Thereapeutics of Epilepsy,*" by J. Leonard Corning, M.D.; "*Insanity and Diabetes,*" by M. J. Madigan, M.D.

The paper of Dr. J. T. Eskridge, on "*Tubercular Cerebro Spinal Meningitis,*" read before the College of Physicians of Philadelphia, April 4, 1883, is given in this number, and is an able and exhaustive article upon this topic.

The July number contained among several valuable articles, Dr. E. C. Seguin's notes on "*Spanish Asylums for the Insane,*" also articles on "*Locomotor Ataxia,*" by Dr. Charles K. Mills, of Philadelphia, and by Dr. S. G. Webber.

The October number contained an interesting paper by James H. Lloyd, M.D., on "*Hysteria.*" A case of "*Nutritive Allirations and Deformity of Fingers from pressure on the nerves in the Axilia,*" by Prof. F. T. Miles, of the University of Maryland. A paper on "*Neurological Specialism,*" by

the editor, and a paper by Dr. Leonard Weber, on "*The Neurotic origin of Progressive Arthritis Deformans.*"

The editorial department keeps pace with the advance of Neurological and Psychiatric science in the world. The *Periscope* is an important and valuable feature of this journal. The *Physiology of the Nervous System* is edited by Dr. Isaac Ott. The *General Pathology of the Nervous System*, by W. R. Birdsall, M.D., who is abundantly qualified for this branch of the science. The *Mental Pathology* is edited by J. G. Kiernan, M.D., and the *Therapeutics of the Nervous System*, by C. L. Dana, M.D., each over their names.

All in all, the journal is a credit to the branch of the science it represents, and is abreast the leading journals of the world in its specialty.

CENTRALBLATT FÜR NERVENHEILKUNDE, PSYCHIATRIE UND GERICHTLICHE PSYCHOPATHOLOGIE.—Leipzig, (Theodor Thomas)—Edited by Dr. Albrecht Erlenmeyer, of Bendorf, is a welcome visitor upon our exchange table. We shall notice this journal more at length in our next number; as also

DER IRRENFREUND, by Dr. Brosius, of Bendorf, which comes in our exchanges, but not regularly, which we hope will be corrected.

Both these journals are of great interest, and we shall review some of their articles, and perhaps, if we have space, reproduce one or more of them.

PROF. R. GAROFOLO, our Corresponding Member, has contributed a copy of his valuable paper, entitled "*Osservazioni sul Progetto del Codice Penale,*" and Prof. AUGUSTO TAMBURINI has sent us two of his recent works, "*Psicopatologia Criminale,*" associated with G. SEPPELLI, and "*Progetti de legge sugli Alienati in Italia ed in Francia.*"

DR. ERLLENMEYER has presented seven volumes of his own writings to the Library of the Medico-Legal Society, and

Prof. KRAFFT-EBING has also made a contribution of a considerable number of his original works to the Library of the Society. Dr. Erlenmeyer was elected a Corresponding Member of the Medico-Legal Society of New York at the March meeting of 1884.

TRANSACTIONS OF THE HYGIENIC SOCIETY OF ATHENS, GREECE.—Edited by Ch. Anastassiadis, G. Vaffa, A. Dambergi, B. Patrikios, Ch. G. Ralli, D. Chassisttis. Director, Ch. G. Ralli.

We have received the numbers for June, July, August, September, October, November and December, 1883

They contain the record of proceedings of the meetings of the Society.

The first number contains papers: On the precautionary measures in acute diseases, chiefly of the respiratory organs of children; Microbia—New method for preservation of vaccine; useful hints of the health at home; short instruction on epidemics; on asses' milk for children; on the method of putting plaster in vines; discussion on epidemics; deaths in Athens in May, 1883; meteorological observations.

The remaining numbers have papers and reports upon hygiene which space prevents our reviewing at length.

BRITISH MEDICAL JOURNAL.—We welcome this really valuable serial to our exchange list. It is from our standpoint the best medical journal of the world, so far as we have any knowledge. It is issued weekly as a newspaper, and is of convenient size to be bound as a volume. The last number announces that its circulation exceeds 12,000 copies.

The success of this journal is greatly due to the energy and ability of Mr. Ernest Hart, and we believe, if brought to the notice of our physicians, would have a largely increased American circulation.



THE SAN FRANCISCO WESTERN LANCET.—Edited by W. S. Whitwell, A.M., M.D., is received in our exchanges.

It contains reviews of Dr. E. C. Mann's work on Psychological Medicine; Dr. Allan McLane Hamilton's Types of Insanity, and a notice and review of the MEDICO-LEGAL JOURNAL. It is a monthly journal, ably edited, and must be a valuable aid to the general practitioner.

THE MEDICAL TIMES—(Philadelphia), Edited by Dr. Frank Woodbury, is upon our table. It is published by J. B. Lippincott & Co., and is a monthly of sterling merit.

Its December number contains a Report on Progress in Hygiene, Toxicology and Medical Jurisprudence, by Henry Leffman, M.D. (recently elected a corresponding member of the Medico-Legal Society of New York). These Reports promise to be an interesting feature of this journal.

FRIEDREICH'S JOURNAL OF MEDICAL JURISPRUDENCE, POLICE AND SANITARY REGULATION (FRIEDREICH'S BLATTER FÜR GERICHTLICHE MEDICIN, &C.) for March and April, published in Nuremberg, by Friedreich (Kornschen, Buchhandlung,) is received.

This number contains several articles of interest to the lawyer and the doctor. Dr. von Krafft-Ebing's elaborate paper on the responsibility and punishment of offenders ignorant of the law, foreigners who commit crimes on children, and the degrees of punishment which should be meted out to them, is of importance, and would interest the "Society for the Prevention of Cruelty to Children."

Dr. Wallner devotes fifteen pages to the subject of "Mania transitoria," or insanity with lucid intervals, which occasionally impels the one possessed of such malady to commit murder, and heinous offences generally. His treatment of the subject evinces that his practice and experience in this particular department has been very extensive, and he discourses in a common sense way.

Other papers, by Dr. Krauss, Dr. Weiss, and Dr. Huber, are of general interest.

ANNALES D'HYGIÈNE PUBLIQUE ET DE MÉDECINE LÉGALE.—(Paris).

This journal is edited by a committee, of which Professor P. Brouardel is chairman and Dr. V. Du Chaux is secretary. The January number commences Vol. 11. of the 3d Series.

The leading article is on "Insane Criminals," a paper read by Dr. Motet at the Congress of Rouen, August, 1883.

Dr. H. Bourru contributes an article descriptive of "Tong-king," its climatic, scientific and geographical aspects.

The proceedings of the Medico-Legal Society of France are given of the session of November 12, 1883, Dr. M. BouDET, vice-president, presiding.

Dr. T. Gallard made comments upon the Judgment of the Tribunal of Bordeaux upon "Artificial Fecundation," and the Society named a special committee to report upon the subject, composed of MM. Chaudé, Gallard, Horteloup, Le Blond, and Leon.

Dr. Siegey presented a paper upon "Medical Testimony in Medico-Legal Cases."

Dr. Louis Penard then addressed the Society and concluded his report upon the labors of the Medico-Legal Society of New York, with a review of Series 2 of Medico-Legal Papers issued by the latter Society. He discussed Dr. Kellogg's paper upon "Epilepsy;" Mr. David Dudley Field's paper on "Emotional Insanity;" that of Mr. R. S. Guernsey on "Juries and Physicians in Cases of Insanity;" of Dr. W. A. Hammond on "Morbid Impulse;" Dr. Parigot's paper on "Rights of the Insane;" Dr. Waterman's paper on "Spectroscope in Forensic Cases;"—discusses the many articles contained in the 2d volume of Medico-Legal Papers, and pays a high compliment to the labors of the Society and of its President, Mr. Clark Bell, for the labors given to science in this department.

The report was discussed by Dr. Gallard, Dr. Blanche and Dr. Lunier.

The session of same Society, December 10, 1883, is reported—Presidency of M. Brouardel.

Dr. Le Blond made a report on "Artificial Fecundation."

The following officers were elected :

Vice Presidents : MM. Blanche and Boudet.

Secretary for three years, Dr. T. Gallard.

Secretaries of the Session : Leblond and Lutaud.

Treasurer for three years, M. Mayet

Archivist for three years, Ladreit de Lacharriere.

Permanent Committee for three years: Foville, Langier, Vibert.

Members of Council : Chaude, Choppin, D'Arnouville, De Villers, Lefort, Lunier.

Committee on Publication: Demarege, Descoust, Leblond, Lutaud, Rocher.

THE QUARTERLY JOURNAL OF LEGAL MEDICINE AND PUBLIC HEALTH (VIERTELJAHRSSCHRIFT FÜR GERICHTLICHE MEDICIN UND OFFENTLICHES SANITÄTSWESEN).—Dr. Herman Eulenberg, Editor, (Berlin, 1884. Verlag von August Hirschwald).

The January number, 1884, of this very interesting journal is before us.

Dr. Adolph Lesser contributes a very able paper on "Ante-mortem changes in submerged cadavers, in cases of drowning."

Dr. Ermann writes: I. On a Corpse that had been submerged two years. II. On two Corpses that had been preserved like Mummies.

Dr. Freyer, a paper on The Early Appearance of post-mortem Changes of Skin and External Organs, as indicating Cause of Death.

Dr. Schwarze, an article on The Case of Gardner, charged with incest and murder.

Dr. S. Wolff, an interesting paper : To determine whether a deceased woman had been choked by third person, by external signs.

Dr. E. Auerbach : Analysis of decay in Dead Bodies.

On Public Sanitation : Dr. Emil Stern contributes a paper

on "Spread of Venereal Diseases in Breslau." "Epidemic of Diphtheria," from an article read in the Medical Society of Southwest Holstein, by Dr. G. Krosz. Dr. Theo. Roth contributes an article on "Origin and Treatment of Cholera." Dr. Hiedenstadt writes on "Artesian Wells" and Hamburg Waters; and Dr. H. Eulenberg, an article on "Vaccination in Royal Prussian Institute for 1882."

The miscellaneous contributions are rich and valuable, and the department of literature well repays study.

THEODRIE ROMEYN BECK, M.D., LL.D.

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THERE is no name on the American continent to whom the science of Medical Jurisprudence is more indebted than that of Dr. T. Romeyn Beck. He, more than any other man of the previous generation, brought forensic medicine to the notice, not only of the two professions of law and medicine, but to the general recognition of the country.

“Beck’s Medical Jurisprudence,” originally published in 1823, which has passed through many American, English and German editions, was universally acknowledged in its day to be a leading work on the science, and was as often found upon the shelves of the lawyers’ library as that of the medical man.

Dr. Beck was born at Schenectady, August 11, 1791, and died November 19, 1855. He graduated from Union College, Schenectady, at the age of sixteen years, and took his degree at the New York College of Physicians and Surgeons in 1811. The degree of LL D. was conferred upon him by the Mercersburg College, Pennsylvania, and by Rutgers College, New Jersey.

In 1815 he was appointed Lecturer on Medical Jurisprudence in the College of Physicians and Surgeons for the Western District, then established at Fairfield, New York; and in 1826 was made Professor of Medical Jurisprudence at that College, which chair he held until 1840.

When the New York State Lunatic Asylum at Utica was



founded he was named as one of the Board of Managers, which position he held until his death; and on the death of Mr. Munson, in 1854, was unanimously elected President of that Board.

He was a contributor to the *American Journal of Insanity* while Dr. Brigham was the editor, and, on the death of that gentleman in 1850, was chosen its editor, which position he filled until the year before his death.

We quote from his remarks on the proposed establishment of a university, made in the capitol at Albany, March 30, 1853, before the Legislature, the following:

“We require the appointment under public authority of a *Professorship of Medical Jurisprudence or Forensic Medicine*. It is not possible to do full justice to this subject in Medical Colleges. We teach there what is known; we want a person or persons who shall ascertain, if possible, the unknown; and great as have been the discoveries of late years in this science, still the cunning of the murderer has frequently outrun them.

“Why should not men duly qualified be appointed to such an office, who, by their researches, would be far in advance of those who, by secret, and in some cases almost unknown means, prevent detection in the commission of crime.

“There is a person now living (Orfila), the certainty of whose knowledge on the power of poisons is such, that he is not only called to examine cases in every part of France, but not long since was summoned to Belgium in one, which, at the time, attracted the attention of all Europe. I hold that there should be two or three persons of this character appointed and paid by the Government to perform this important duty.”

It seems proper, when we are almost at the close of the generation which has passed, since death terminated the labors of this early American student and teacher of forensic medicine, whose name has been so intimately associated with the growth and progress of Medico-Legal science in the last years of our century, that we should present his portrait to the readers of this JOURNAL, devoted to a science of which he was so lustrous an exponent and ornament.

We are indebted to Prof. Frank Hastings Hamilton, ex-President and Honorary Member of the Medico-Legal Society, for the leading facts as to the life and death of Dr. Beck, and to his surviving daughter for the engraving which embellishes this number.

# MEDICO-LEGAL SOCIETY.

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(LILY OF THE VALLEY)

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# STATEMENT OF THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK.

F. S. WINSTON, President.

For the year ending December 31st, 1883.

ASSETS - - \$101,148,248.25.

## ANNUITY ACCOUNT.

No.	ANN. PAY'TS.	No.	ANN. PAY'TS.
Annuities in force, Jan. 1st, 1883. 55	\$19,200 91	Annuities in force, Jan. 1st, 1884 61	\$23,134 31
Premium Annuities.....	3,712 44	Premium Annuities.....	3,674 96
Annuities Issued .....	4,433 40	Annuities Terminated.....	537 48
62	\$27,346 75	62	\$27,346 75

## INSURANCE ACCOUNT.

No.	AMOUNT.	No.	AMOUNT.
Policies in force, Jan. 1st, 1883. 106,214	\$329,554,174	Policies in force, Jan. 1st, 1884. 110,990	\$342,946,032
Risks Assumed .....	11,531 37,810,597	Risks Terminated.....	6,755 24,418,739
117,745	\$367,364,771	117,745	\$367,364,771

DR.		REVENUE ACCOUNT.		CR.
To Balance from last account .....	\$92,782,986 08	By paid Death Claims .....	\$5,095,795 00	
" Premiums received. ....	13,457,928 44	" " Matured Endowments .....	2,866,261 73	
" Interest and Rents .....	5,042,964 45	Total claims—		
		\$7,962,056.73		
		" " Annuities .....	27,661 38	
		" " Dividends .....	3,138,491 69	
		" " Surrendered Policies and Ad-		
		ditions.....	2,831,150 71	
		Total paid Policy-hold-		
		ers—\$13,959,360.51		
		" " Commissions, (payment of		
		current and extinguish-		
		ment of future).. ..	886,126 90	
		" " Premium charged off on Se-		
		curities Purchased.....	405,472 22	
		" " Taxes and Assessments.....	226,077 69	
		" " Expenses.....	834,752 79	
		" " Balance to New Account ...	94,972,108 86	
	\$111,283,878 97			\$111,283,878 97

DR.		BALANCE SHEET.		CR.
To Reserve at four per cent.....	\$95,571,877 00	By Bonds secured by Mortgages on		
" Claims by death not yet due.....	908,635 00	Real Estate.....	\$46,303,472 34	
" Premiums paid in advance.....	22,794 35	" United States and other Bonds.	25,279 040 00	
" Agents' Balances .....	8,479 56	" Loans on Collaterals.....	15,037,910 00	
" Surplus and Contingent Guarante		" Real Estate.....	8,633,971 89	
tee Fund.....	4,636,462 34	" Cash in Banks and Trust Com		
		panies at interest .....	3,403,249 63	
		" Interest accrued .....	1,310,588 23	
		" Premiums deferred, quarterly		
		and semi-annual.....	1,039,229 68	
		" Premiums in transit, principally		
		for December .....	140,786 48	
	\$101,148 248 25			\$101,148,248 25

NOTE.—If the New York standard of four and a half per cent. Interest be used, the Surplus is over \$12,000,000.

From the Surplus, as appears in the Balance Sheet, a dividend will be apportioned to each participating Policy which shall be in force at its anniversary in 1884.

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ASSETS.....\$101,148 248 25

NEW YORK, January 18, 1884.

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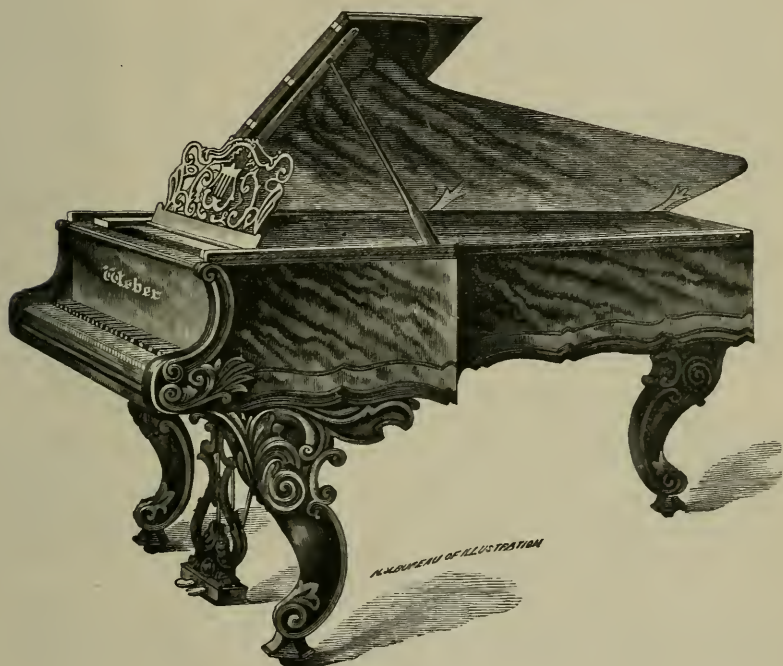
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